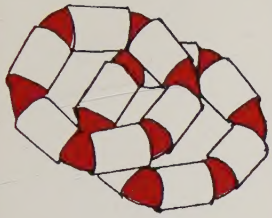
Uppsala Studies in Cultural Anthropology · 10



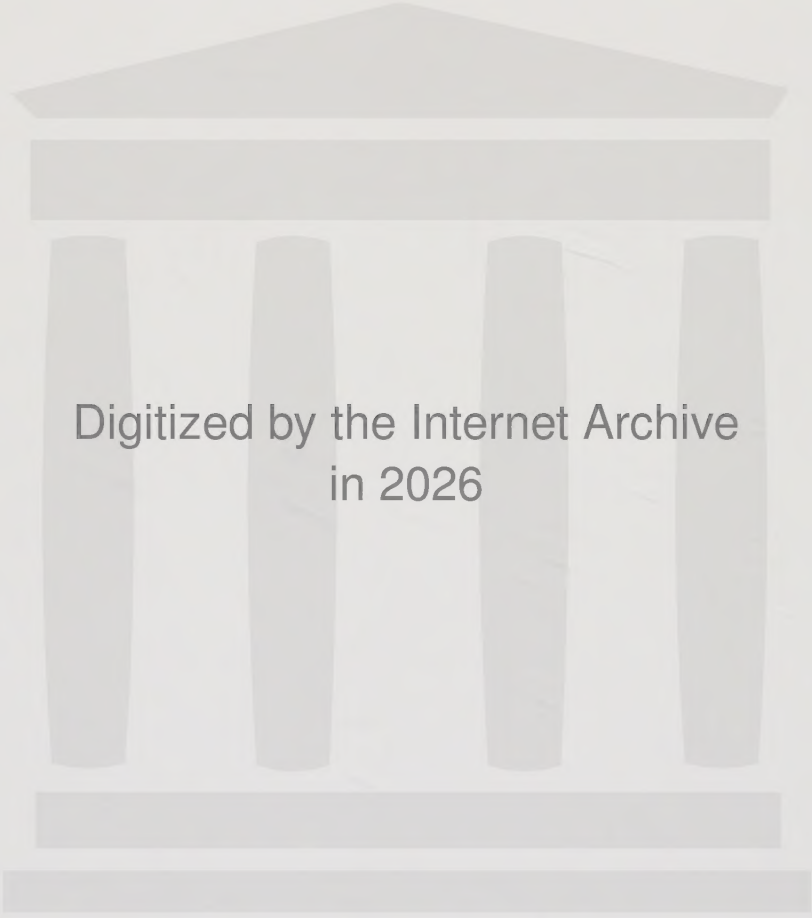
Bridewealth, Women and Land

Social Change among the Gusii of Kenya

By Thomas Håkansson

Acta Universitatis Upsaliensis

1987


Digitized by the Internet Archive
in 2026

https://archive.org/details/IA41551503_0002

Acta Universitatis Upsaliensis
Uppsala Studies in Cultural Anthropology
10

Bridewealth, Women and Land

Social Change among the Gusii of Kenya

Thomas Håkansson

UPPSALA 1988

Distributed by
ALMQVIST & WIKSELL INTERNATIONAL
STOCKHOLM, SWEDEN

Printed edition of a doctoral dissertation presented to the faculty of arts, Uppsala University 1987

Abstract

Håkansson, N. Thomas. Bridewealth, Women and Land. A Study of Social Change Among the Gusii of Kenya. Acta Univ. Ups., *Uppsala Studies in Cultural Anthropology* 10 237 pp. Uppsala. ISBN 91-554-2190-3

The present study examines the persistence of bridewealth and its manifestation with changing social and economic conditions among the Gusii people of Kenya. I examine the changing role of bridewealth in structuring male-female relationships with a focus on resource allocation and family affairs. The analysis focuses on the marginalization of women and the prevalence of informal unions among poor farmers, as well as in altered relationships between employed women and their natal kin, and between wife-givers and wife-takers among the members of the wealthy educated.

Bridewealth transactions have come to concern rights in land and property as well as rights in people. Elopement and informal unions are the common way for young men and women to establish households. Meanwhile, jural norms connected with women's access to resources and the definition of their social status have remained largely intact since the colonial period.

Through the use of a diachronic perspective I have also attempted a contribution to the theoretical approaches to bridewealth. The theoretical perspective relates the social form to individual actions and their use of bridewealth to reach certain goals as well as including the norms concerning expected and binding rights and obligations adhering to transactions, and their transformations.

At present a transformation of bridewealth and connected institutions is in progress with respect to norms, values and social form.

Thomas Håkansson, Department of Cultural Anthropology, Uppsala University, Trädgardsgatan 18, S-752 20 Uppsala, Sweden.

The publication of this monograph has been partly financed by The African Studies Programme at the Department of Cultural Anthropology, University of Uppsala.

ISBN 91-554-2190-3
ISSN 0348-5099

© Thomas Håkansson 1988
Printed in Sweden by Graphic Systems AB, Stockholm 1988

Contents

List of Plates 8

List of Figures 9

List of Tables 10

Preface 11

1. **Introduction** 13
   An appproach to bridewealth and social change 18
   The data and its limitations 21
   Material and methods 23
   Written sources 23

PART I. PRE-COLONIAL GUSII SOCIETY

2. **Pre-Colonial Gusii Society and Economy: A Model** 27
   Introduction 27
   Settlement of Gusii Land 27
   Economy 29
   Socio-political structure 30
   Conclusion 39

3. **Bridewealth and Marriage** 42
   Introduction 42
   Marriage procedure 42
   Marriage and the status of husband and wife 49
   The bridewealth contract 54
   Assembly and allocation of bridewealth 56
   Jural aspects of bridewealth 57
   The political economy of bridewealth 62
   Conclusion 66

PART II. BRIDEWEALTH AND THE COLONIAL TRANSFORMATION

4. **The Impact of Colonial Administration: Land and Law** 73
Introduction 73
Economic change 74
Politico-legal changes 75
Legal organization and disputes 77
Land tenure and marriage 80
Conclusion 83

5. **Bridewealth, Market, and the Exploitation of Women** 86
Introduction 86
Bridewealth and market expansion 88
Women's labor and legal control 95
Conclusion 101

PART III. THE CONTEMPORARY ROLE OF BRIDEWEALTH

6. **Contemporary Gusii Society and Economy** 113
Introduction 113
The Economy 116

7. **Modern Forms of Social Organization** 121
Introduction 121
Aspects of traditional social organization today 121
New social groups and categories 126
Conclusion 136

8. **Bridewealth and the Family Today** 138
Introduction 138
Marriage procedure 138
The status of husband and father 141
The status of wife 149
The bridewealth contract 155
Conclusion 161

9. **The Changing Value and Use of Bridewealth** 164
Introduction 164
The decline in bridewealth value 164
The demise of polygyny 166
The use of bridewealth 172
Conclusion 175

10. Elopement and the Marginalization of Women 178
Introduction 178
Elopement 178
Marriage and elopement: choice and constraints 186
Conclusion 193

11. Bridewealth and Marriage among the Employed 196
Introduction 196
The changing use and meaning of bridewealth 196
Cattle, cash and bridewealth 204
Conclusion 210

12. Conclusion 213

APPENDICES

1. Bridewealth statistics-number of observations, 1929-1964 225
2. Bridewealth statistics: means and standard deviations, 1965–84 226
3. Population statistics: Sengera and Suneka areas. 227

References 228

Index 234

List of Plates

A typically densely cultivated landscape in Kisii District, with a view of Keroka town.
Gusii farms occupy strips of land extending from the hilltops to the valley bottoms. Each farm holding is demarcated by a hedge.
A peasant homestead.
A wealthy employed farmer with one of his prized possesions: a European cow.
Photo: Monica Udvardy.
A Gusii mother with her son and his age-mates in the family's tea plantation.
Women drying fermented maize for the preparation of beer.
A Gusii nurse at a hospital ward in Kisii Town.
Photo: Elsie Bengtsson.
Ebetinge. The ankle rings put on wives at the traditional wedding ceremony. Although not made anymore, some old women still wear them,
Old women wearing ebetinge.
Bridewealth negotiations at the home of a moderately wealthy and employed farmer.
Photo: Monica Udvardy.
Taking home the bridewealth cattle.

List of Figures

1. *Map of Kisii District ca. 1910*
2. *Schematic representation of segmentation in a clan -cluster*
3. *Plan of a traditional Gusii house*
4. *Daughter-in-law marriage*
5. *Diagram showing yearly export values of crops from Gusii Land, 1933-68*
6. *Agricultural income per adult male, and monetary value of bridewealth, 1929-64*
7. *Agricultural income per adult male, and bridewealth in terms of cows, 1929-64*
8. *Map of present-day Kisii District*
9. *Yearly fluctuations in bridewealth paid for employed and non-employed women, 1965-84*

List of Tables

1. *Cow prices in Gusii Land, 1931-64*
2. *Gusii cattle holdings, 1930-66*
3. *Population in Kisii District*
4. *Income differentiation in Mwogeto sublocation*
5. *Economic stratification in Mwogeto sublocation*
6. *Court cases involving divorce and custody of children filed in Kisii court, 1979-80*
7. *Major reasons for divorce petitions*
8. *Polygyny rates*
9. *Composition of bridewealth for non-employed women*
10. *Use and allocation of bridewealth*
11. *Incidence of bridewealth payment and elopement, 1957-83*
12. *Rate of estrangement*
13. *Estrangements by men, 1951-80*
14. *Difference in time between non-employed and employed men in paying bridewealth for non-employed women*
15. *Composition of bridewealth for employed women*
16. *a. Incidence of bridewealth payment for non-employed and employed women at time of cohabitation, 1975-80*
    b. Incidence of bridewealth payment two years after entering cohabitation, 1975-80
    c. Incidence of bridewealth payment four years after cohabitation, 1975-80
17. *a. Incidence of bridewealth payment at time of cohabitation, 1981-83*
    b. Incidence of bridewealth payment two years after cohabitation, 1981-83

Preface

The undertaking of the research on which this book is based has involved a number of people who, in different capacities, have contributed to its completion. I would like to express my gratitude and appreciation to them.

First of all, to my colleague and companion, Monica Udvardy, at the Department of Cultural Anthropology, Uppsala, who has provided professional advice and personal comfort throughout. She has read several versions of the dissertation and provided detailed analytical and editorial comments as well as discussing the research over the years. I have benefitted greatly from her anthropological knowledge and analytical sharpness. While conducting her own fieldwork in Eastern Kenya, she also assisted me by carrying out several interviews with women concerning issues of an intimate nature. She also placed at my disposal her own field notes from a study of aging among the Gusii. She did *not* type the manuscript and has not been my housewife.

My advisor, Professor Anita Jacobson-Widding, has contributed greatly to my development as an anthropologist. She has always been accessible for advice and has spent much time discussing my research with me. Her careful and inspiring guidance as well as extensive knowledge of African anthropology has made the dissertation possible to write. She has read and commented on several versions of the manuscript and patiently clarified analytical and editorial issues. For her guidance and inspiration, I am deeply indebted.

Bernhard Helander and Kaj Århem, Department of Cultural Anthropology, Uppsala; Eva Tobisson, Department of Anthropology, Stockholm; and David Parkin, University of London, read and commented on different versions of the manuscript. I would like to thank them for their helpful comments and suggestions. I am also greatly indebted to Uri Almagor of The Hebrew University in Jerusalem, who, as the external examiner, read the dissertation and provided constructive criticism and inspiration for future research.

Several other colleagues have made constructive and valuable comments on parts of the research at various stages of its development. I thank: Susan Whyte, University of Copenhagen; Bo Gustafsson, Per Brandström, Hugh Beach, and Jan Ovesen, University of Uppsala; Jan Hultin, University of Gothenburg; Hans Hedlund, University of Stockholm. I would like to especially mention the following friends at the Department of Cultural Anthropology: Peter Bretschneider, who has spent many arduous hours helping a person with numerical phobia to comprehend statistical computations; Paul Sinclair for computer assistance and comradery; Enid Nelson took the time off from her own work in order to correct my English; and Thomas Madsen,

University of Lund drew the figures and made pertinent comments on the material.

Professor David Brokensha, Department of Anthropology, University of California at Santa Barbara, was my first advisor when I started my career as an anthropologist. To him I owe much as a teacher and a friend. He encouraged and guided my early development into a professional anthropologist and was instrumental in the conception and development of the research plan. He also carefully read and commented on the manuscript.

In Kenya, the Gusii people showed me great hospitality and never tired of my strange questions. Among them I would like to thank Crispo Njoga, who was my principal field assistant. The research owes much to his ability as a field researcher. His social sensitivity, quick wit and enthusiasm greatly eased our work in a variety of contexts. He and his parents, the Reverend Samuel Njoga and the late Rebecca Njoga, always showed me great hospitality. Jeremiah Atancha, Peter Obegi, Josephine Onyancha, Faustina Mbera, also worked as my field assistants with great skill. Mellen and David Nyanchiro, John Oigara, Clement Nyandara, Moigare, Joseph Simba, Samuel Onchagwa, all showed me hospitality and took me into their confidence.

During my first trip to Kisii I was offered hospitality as well as housing by the Swedish Lutheran Mission in Iterio. Elsie Bengtsson (Sandberg), Anna-Britta Albertsson, Karin Johansson, and Inge-Gerd Johansson provided friendship and a place of comfort throughout my fieldwork. They were all responsible for my introduction to Gusii Land.

The sisters at the Roman Catholic Church in Sengera, Majoge, placed one of their houses at my disposal during a later visit. Father Alphons Geerts and Alois Vogelsberger supported my work and became my friends.

I would like to thank the District Commissioner and the Kisii Court who always opened their doors to me and greatly facilitated my research task.

The Department of Sociology at the University of Nairobi, to which I was affiliated, provided scholarly support. Professors Muga, Akonga, and Migot-Adholla made it possible for me to begin my research.

I would like to express my gratitude to the Government of Kenya, the Office of the President, and the Council for Science and Technology for granting me a permit to undertake this research.

In Sweden a number of people and institutions were involved in facilitating the task. I am grateful for grants received from the Swedish Agency for Research Cooperation with Developing Countries (SAREC); the Swedish Research Council for the Humanities and Social Sciences (HSFR); the Swedish Society for Anthropology and Geography; and the Swedish Institute.

In the early stages, Jean Ebert at the Swedish Institute and the staff at the Swedish Embassy in Nairobi were very helpful with liaison efforts with the Government of Kenya.

Finally, I am grateful to my parents who always gave me the freedom to pursue my sometimes eccentric interests.

Chapter 1

Introduction

Processes of social change in African societies have received little attention. Research on African cultures and societies have usually taken a synchronic perspective analysing communities at one point in time. This study of bridewealth in a changing society focuses on the transformation and adaptation of a social institution through time. The choice of bridewealth as a focus was inspired by the fact that it has persisted as a viable institution, despite the profound economic, political, and social transformations that have taken place in sub-Saharan Africa since the inception of colonialism. Although a topic which has long fascinated anthropologists, the theoretical perspectives that have been advanced for the analysis of bridewealth have generally been static and unidimensional. The diachronic approach espoused here is an attempt to overcome this problem by viewing different aspects of bridewealth as varying through time.

The purpose of this study is to examine the persistence of bridewealth among the Gusii people of western Kenya. During the last two centuries the Gusii have settled in the highlands east of Lake Victoria. Their district is today among the most productive cash crop regions in Kenya. Social organization is based on patrilineal descent groups and follows segmentary principles. Bridewealth is paid in order to establish marriage and affect affiliation of children to patrilineal descent groups.

The focus of this work is on the factors which have affected the norms and actions connected with bridewealth transactions. This entails a study of the integration of bridewealth into: 1. The market economy; 2. The new, altered aspects of social organization; and 3. The legal and administrative apparatus of colonial and modern Kenya. The role of bridewealth vis-à-vis change is examined with respect to family organization, property relations and social interaction between people connected through such transactions. In contrast to the usually male-centered studies of bridewealth exchanges, the relationship between bridewealth and women's statuses and roles, especially pertaining to property, is explored.

In this study, socio-cultural change is viewed as the result of an interplay between internally and externally generated influences. Social structure and cultural values mediate and shape the transformations taking place within the society. Individuals utilize new resources and encounter new social and political conditions. However, they are selective in their responses and in their adaptation of a culturally given framework of evaluation and norms.

In addition to being a study of social transformations and institutional adaptation, this book is also a treatise on gender relations and family organization. I focus on the changing rights and obligations between spouses established through marriage. Since bridewealth is instrumental in regulating property relationships and control over people, it presents a perspective through which women's and men's roles and relations to property can be elucidated.

In order to establish an operational approach which more specifically defines the problems of research and how these problems can be investigated, I shall turn to anthropological studies of bridewealth. Most of these concentrate on the colonial period and the role of bridewealth in "traditional" small-scale societies but often without reference to socio-economic changes.

Bridewealth theories

The study of bridewealth in Africa has taken a number of different approaches, some of which have been highly controversial (see Comaroff 1980 for a recent survey). A review of all of these falls outside the scope of this study and I shall here present only those theories and "schools" which are relevant to my purposes.

A dominant theme of analysis focuses on the legal aspects of bridewealth. A recent advocate is Ogbu who states:

> The primary function of the bridewealth payment is the legitimation of marriage (Ogbu 1978:258). In legitimation of marriage, bridewealth elevates the man to the status of husband and the woman to the status of wife. As a husband and a wife they incur reciprocal rights and obligations for which they are held accountable (*ibid.*:256). These reciprocal rights are supported by public authority (*ibid.*:248).

The content of bridewealth represents the visible basis of the contract and is the legal fact according to which rights and obligations between the parties are determined. Hence, the separate items (hoes, livestock etc.) provide a public counter of each clause of the agreement (Jacobson 1967:157ff).

A further important legal corollary to bridewealth is the affiliation of children. As Mair phrases it: "Bride-price is child price". She continues: "bridewealth is essentially a return made for the woman's fertility...as long as the cattle given on a man's behalf are in the possession of a woman's lineage...the children she bears are counted as the children of that man" (1971:58).

Thus the transfer of bridewealth makes a union legal in that it entails socially sanctioned, binding rights and obligations between husband and wife and towards the rest of society, e.g., a husband's rights in his children, rights in genetricem, and to his wife's productive powers, rights *in uxorem* (Mair 1971:51); and a wife's rights in relation to her husband such as his obligations to provide her with adequate housing and proper clothing (Jacobson 1967; Ogbu 1978).

Several authors within the legal tradition also focus on social structural arrangements following from the legal rights and social norms connected with bridewealth payments. They perpetuate patrilineal descent groups through affiliation of children to the father's descent group and define rights to property and inheritance (Goody 1973a). Furthermore, the bridewealth transaction also creates relationships of affinity and kinship and their concomitant structural features (Fortes 1962).

Another mode of analysis takes its theoretical inspiration from the formalist school of economic anthropology. This approach has been especially prevalent in studies of agro-pastoral societies in eastern Africa. Goldschmidt (1969; 1974) explicitly employed a market model for bridewealth. In a study of bridewealth among the Sebei and other East African societies, he concludes that: "These data...suggest that where brideprice is viewed as negotiable, the amount paid is responsive to market factors" (Goldschmidt 1974:327), and, "among the Sebei...the contract significantly reflects the laws of supply and demand, and that to an important degree it must be viewed as economic" (*ibid.*:328).

Bridewealth is seen as a payment for, or lease of, the woman's services and for rights in her children upon their alienation from her family. Women and bridewealth are thereby seen as parts of a market where supply and demand affect the relative exchange rates between these two both over time and between societies (Goldschmidt 1974; Schneider 1979).

Finally, a few recent studies have emphasized the symbolic aspects of bridewealth as expressions of basic cultural ideas about how the social world is constructed (Comaroff 1980a). In a comparative study of bridewealth among the Mijikenda peoples of coastal Kenya, Parkin focuses on:

> ...the inherent logical capacity of marriage payments to provide conceptual and terminological distinctions and, therefore, yardsticks by which opposed parties to the transaction can shift the balance of power between them within broad outlines of customarily acceptable behaviour (1980:219).

These approaches are to a great extent complementary and not mutually exclusive, although each emphasizes one particular dimension of bridewealth as predominant and structurally significant. The theoretical and comparative propositions make it possible to define initially the following socio-cultural corollaries which constitute bridewealth and to formulate the focus of this study:

1. The legal and social norms that are connected with bridewealth in creating a marriage, i.e., those rights and obligations attached to the statuses of husband and wife, children and parents, and affines.
2. The economic and political aspects which relate to bridewealth accumulation and the use of wealth and competition for values.
3. The symbolic or communicative content of bridewealth which may express a specific model of social relations which is reproduced through its transfer.

Although helpful in identifying areas of interrelationship between bridewealth transaction and social and economic variables, the extant theories of marriage payments are only partially applicable to problems of change. A number of studies have noted different aspects of alterations in the bridewealth system, but in most cases, have neither related these to the cultural background nor revealed the mechanisms involved.

In the present study, it is crucial to investigate how variations in bridewealth transactions are related to their legal implications. Factors that affect change and persistence of norms in relation to bridewealth are seldom addressed by the legal approach. This particular analytical focus provides a useful tool for handling a central aspect of marriage transactions, but it must be developed to also handle norms and rules through time.

A dynamic component in the models of the formalist approaches stresses the relationship between supply and demand for women and children, and the fluctuation in bridewealth. However, they are inherently male-centered and view rights in women as being exchanged by parents, nor do they recognize women's active role in marriages. While the authors who used this approach may not have intended it to cover the structural factors of bridewealth as a legal and symbolic transfer, the latter are crucial to a fuller understanding of this transaction.

I concentrate on the transactional aspect of bridewealth as an analytical focus. The transfer of cattle or money and the affiliation of wives and children to a bridewealth-paying man's family entails both a socially significant act and a transfer of economic resources (Kuper 1982; Evans-Pritchard 1934:172). I have also included the communicative role of bridewealth to the extent that my material allows, and as a basis for the understanding of cultural concepts connected with transactions.

Three authors have addressed the problem of bridewealth and change in a comprehensive and theoretically explicit manner (Kitching; Murray; Parkin).

A Marxist scholar, Kitching (1980), studied economic conditions in Kenya during the colonial period, and linked changes in bridewealth payment to the market economy and the introduction of money in bridewealth. He suggests that the increased importance of agriculture for cash crop production reduced the importance of cattle and caused livestock to be replaced by money in bridewealth payments. The latter became a source of capital that the male head of the household could use for investments other than marriages. In this process women's labor became more and more important for the production of cash crops and bridewealth increased in value as a reflection thereof. Following this development, women's position in the household was weakened with the result that their rights in resources and income changed to the benefit of men. Women's labor began to be used for the production of cash crops, the income from which was appropriated by men.

Thus, he sees commodity production and money economy as influencing bridewealth to become a payment for women's labor resources, as well as creating a change in the norms governing husband and wife relationships with respect to resource control.

Murray's (1977, 1976, 1981) study of bridewealth change among the Lesotho in southern Africa attributes the persistence of bridewealth to its social and economic significance. In a reconstituted economic and social environment based on long-term labor migrations by young men, bridewealth is used to establish and maintain family and kinship relations as well as providing a source of income for the older generation. Bridewealth payments assure men full legal status as husbands and fathers, and prevent the break up of their families at home in their absence. At the same time, the older generation receives a transfer of wealth from younger working men in the form of bridewealth. This is paid in money and is a necessary contribution to the household economy, used for investment and consumption. Thus, the older generation as well as the younger emphasize the legal norms connected with bridewealth payments.

In other words, it has been possible to adapt the traditional norms connected with bridewealth to a transitional social and economic situation. The participants have incentives to enforce these norms for new reasons. Murray also stresses that the economic and cultural aspects of bridewealth transfers cannot be separated. They are economic in the sense that they transfer cash and livestock which are important in the household economy; they are cultural in that bridewealth establishes social relationships and binding rights and obligations (Murray 1981:146).

Finally, in a number of studies, Parkin (1972, 1978, 1980) has addressed the persistence of bridewealth from different aspects. In his work on the urban Luo in Nairobi he shows how Luo "cultural autonomy" is based on the constant interrelationship between three institutions: high bridewealth, polygyny, and a segmentary patrilineal descent system. These institutions, he maintains, presuppose each other so that bridewealth is linked intrinsically to the other two. Bridewealth among the Luo and societies of the Luo type (Parkin 1978:266) is characterized by the unambiguous transfer of rights in a woman's offspring, and by exclusively male control and ownership of property. The polygynous family is regarded as the prototype of the lineage and segmentation, and high bridewealth is secured through competition for wives.

Emphasis is placed on the relationship between bridewealth and other institutions and ideological connections between these two. The rights and obligations established through bridewealth payments have persisted because the structural principles of Luo society could be adapted to a changed social and economic environment. Parkin's point is that the three institutional components have retained their relations to each other although the content of each has altered. He also predicts that if any of these institutions changes in relation to the others, they too will change. Cultural continuity depends on the traditional status of women and their role in the perpetuation of the polygynous family (Parkin 1978:288). If women through education and employment gain more power and influence they may renegotiate their status in marriage so that polygyny decreases, rights in children change in favor of women, and informal unions become more common.

These studies emphasize the interrelatedness between bridewealth and other aspects of culture and, as I interpret them, can be useful in formulating an approach to Gusii bridewealth. First, not only wife-givers and wife-takers, but also wives, enter into the negotiation of status and rights to resources through bridewealth transactions (Parkin 1980, 1978:269; Kitching 1980:-128f). The importance of women as actors and transactors with respect to bridewealth has otherwise, to a great extent, been neglected in studies of bridewealth (Singer 1973; Lamphere 1974). A large part of this study is therefore devoted to addressing women's strategies in relation to bridewealth. As recent studies have shown, women's position in East African societies has become increasingly marginalized while their burdens as family providers have increased (Tobisson 1986; Oboler 1985; Pala 1980). However, the role of bridewealth in this process has hardly been explored despite its vital significance for the regulation and definition of women's status.

Second, both Parkin and Murray emphasize the usefulness of bridewealth for structuring social relationships in new economic and social situations. While its ideological and legal aspects are interconnected with a specific type of social arrangement, it is still viable in a changed environment. However, all three authors reviewed above, regard bridewealth as a means of negotiating social statuses and see the legal, economic or symbolic aspects as varying through time. In addition, the economic aspect of bridewealth makes it a potential subject of speculation for individual gain (Murray 1976:101; Parkin 1972:101).

This perspective on bridewealth as integrated with specific socio-cultural aspects, and its character as a transaction through which social statuses and wealth are negotiated is used in this study. The exchange nature of bridewealth and marriage makes a transactional approach to the problem of social change applicable.

An approach to bridewealth and social change

A framework is needed which can be applied to three aspects of bridewealth: norms[1], action and communication through time. For this purpose I have applied an approach to social change which focuses on transactional behavior and interaction (cf. Barth 1981; Holy 1986; Holy & Stuchlik 1983; Moore 1978; Kapferer 1976) .

Moore (1978) attempts to combine the impact of transactions on rules, with the symbolic expressions of transactions. She recognizes two general processes in social behavior: 1. Processes of regularization, where norms, rules, regulations and classifications are attempts to impose order on a chaotic universe and to introduce predictability and meaning in social intercourse. 2. Processes of situational adjustment where such norms and ideas about social interaction are continuously redefined and reinterpreted by individuals who are seeking to gain values and ends to their own benefit (Moore 1978:50).

These processes are continuous and sometimes repetitive, preserving a social form and reinforcing certain rules and symbolic expressions. The overt behavior of individuals, i.e., the aggregate of different activities in a society, is called social form by Barth (1966, 1981; cf. Firth 1954). Change in social form, according to Barth, need not imply a change in the goals for which individuals strive nor in the social rules involved. On the contrary the persistence of values and norms provides continuity in a changing economic and socio-political environment.

The question of how and why norms change has remained largely unexplored in anthropology (*fide* Holy and Stuchlik 1983:90; Moore 1978:6f). For a working hypothesis relating norms to transactions I follow Holy (1986) who proposed two processes which may effect a change in norms. Firstly, transactions can change previous norms and rules and create new principles for interaction. Such alteration in norms must be related to the goals or values which actors seek. Given a change in the actors' environment, e.g., political or economic circumstances, the conditions for transactions may alter to the extent that current rules are perceived as a hindrance. In such cases new rules may be formulated or the old ones reinterpreted (Holy 1986:66,77f). Secondly, a modification in one norm through transactional effects may affect other norms related to the same interactional complex. This is so because the other norms, although not directly affected by an alteration in transactional behavior, may be incompatible with the emergent changes in the first norm (Holy 1986:86).

The legal aspects of bridewealth, such as rights and obligations between husbands and wives, parents and children, and wife-givers and wife-takers, regulate transactions between them. Hence the application of this approach to norms emphasizes changed assets and means available to actors during the economic and political transformations which took place in Gusii Land during the period under consideration. Given such alteration in the conditions for transactions, how are the legal aspects of bridewealth affected? I.e., does behavior between husbands and wives change? How are the rights and obligations pertaining to each status affected? I.e., do the norms change?

By combining Moore's and Holy's approaches it is also possible to encompass the collective models for classifying and ordering the social and natural universe. To see norms and principles for interaction solely as an instrument for individual value maximization disregards the continuity and influence of commonly held values and ideas which provide the cultural framework for decision making. Thus the communicative content inherent in transactions sets limits on how transactions can be construed (Parkin 1976, 1980).

Moore (1978) recognizes the presence of interconnected systems of meaning as well as attempts by actors to reinterpret received social regularities. As the source of change, she focuses on the existence of indeterminacy in the field of cultural and social expression, on those grey areas where inconsistency or ambiguity of rules exists or is generated. If sufficiently numerous, individuals may, by continuous reinterpretation of accepted or vaguely expressed norms, rules and expectations, change the process of regularization

and create new understandings and shared meaning as well as new social forms.

To focus on the following analytical dimensions of transactions allows an integration of the different bridewealth theories. The symbolic and structural approaches to bridewealth can be seen as focusing on processes of regularization while the approaches concentrating on political and economic manipulation are concerned with processes of situational adjustment or social form. The communicative and structural aspects of bridewealth belong to culturally shared expectations and classifications of the social and natural world. Bridewealth can therefore be seen in three dimensions: the communicative dimension, i.e., its meaning in relation to the culturally constructed social universe; the structural aspect, i.e., the norms concerning expected and binding rights and obligations adhering to transactions; and the social form, i.e., how individuals use bridewealth to reach certain goals.

The approach outlined above is applied as follows to processes of change in Gusii society. Part I seeks to reconstruct the main features of Gusii society and economy around 1900 – 1910. In these chapters, I analyze the role of bridewealth in the traditional context, defining its relationship to economic and political processes and its role in the establishment of families through marriage. The legal rules and norms associated with marriage together with the communicative aspect of bridewealth transactions are related to the values pursued by social actors. I concentrate on the rights and obligations which are established within the family through bridewealth payment as well as the resultant social form.

Part II encompasses roughly the colonial period and early independence from ca. 1910 to the end of the 1960s. This period entailed a number of profound changes in Gusii society and economy. In this context the issue is: How did changes in legal apparatus, political/administrative organization and economy affect bridewealth transactions? Political and legal organization are new parameters which give actors new constraints as well as new assets with which to pursue values in relation to bridewealth. The relationship between men and women as affected by, and affecting, bridewealth transactions is crucial. The effects on rights and obligations between husband and wives are analyzed from a transactional point of view, and the changed power and authority relationships are examined. It thus becomes possible to relate changes in legal norms, and in how bridewealth is paid, to the new conditions under which actors enter such transactions.

The chapters in Part III examine the modern role of bridewealth in the context of: a market economy with cash crops and wage labor; privatization of land; changing functions, and declining importance of descent groups; emergence of new social categories based on other criteria than the agnatic descent groups, such as social stratification, church affiliation, education, etc.; a political and legal framework of a totally new kind; and an exploding population and severe land shortage. In this context the relationship between men and women creates a new basis for transactions with respect to resources and social status. The radical alteration of social and economic conditions for

the marriage relationship is examined and emphasis is placed on women's status and role in relation to bridewealth transactions.

The data and its limitations

The field research on which this book is based covered mainly the southern half of Gusii Land and was undertaken in Kisii District in western Kenya during nine months in 1982-83, and three months in 1985. Although I toured most parts of the district, my research was carried out mainly in two localities, around Suneka market center in Wanjare Location, and Sengera market center in southern Majoge. I also made prolonged visits to Bassi Location and conducted research in Kisii Town and its neighborhood.

Socio-cultural and economic conditions differ between highland, Masaba ("up east") and lowland, Chache ("down west") parts of Gusii Land. The most populous subdivision[2] within Gusii Land, the Kitutu, is a traditional chiefdom and has a social and political structure different from the other Gusii divisions. Furthermore the Kitutu together with the other highland subdivisions, the North Mugirango and Nyaribari peoples, are known to have cultural characteristics which are slightly different from the other Gusii clan groupings. The information contained here refers mainly to the conditions and developments in the lowlands inhabited by the Wanjare, Majoge and Bassi groups.

Two main study areas were selected in order to obtain information from both a centrally located and a peripheral community. The two communities thereby represent the older, more densely populated and market connected settlements as well as the outlying populations with a shorter history of cash crop production, mission influence and a lower intensity of commercial activities.

Suneka is a market center situated about seven kilometers west of Kisii Town on the main road to South Nyanza district and the Tanzanian border. The road, which is asphalted and carries heavy traffic to and from Kisii Town, connects Suneka with good communications to the district center. The market center consists of a market place with around 50 business establishments, such as shops, lodgings, workshops, and power mills. A number of cement or brick houses also exist. The chief's office and police station lies near the center of town. Three schools, as well as the Swedish Lutheran Mission with its Church, clinic and a number of other buildings for church workers and activities, are situated nearby. Scattered shops and other businesses are located on the road to Kisii Town so that the area is well integrated into a market network. The market center is inhabited and used by both local Gusii business people, Gusii from other parts of the district and other Africans.

Behind the rows of houses along the road lie peasant farms which produce coffee, ground nuts, bananas, maize, finger millet, beans and pineapples. Goats, sheep, native and exotic cows and poultry are also kept. Close to the market center, the schools and the mission, egg and milk production are profitable ventures.

The main clan occupying the area around the market is Bomorenda which numbered 11 572 persons according to the 1978 population census. Their territory is very densely populated with 638 persons per square kilometer which allows little expansion in agriculture. The farms are small, only about one to two hectares, and most families rely on non-farm income to supplement subsistence.

My fieldwork was concentrated in an area about five kilometers radius from the market center. Its inhabitants represent the typical Gusii peasants who live in this densely populated area. Except for the settlement schemes on the border to Kericho District in the northeast, little differentiation in land holdings exists in the district as a whole. The closeness to Kisii Town and the asphalt road have long provided opportunities for off-farm work in manual and qualified jobs as well as different types of business activities. In addition, the earlier economic prosperity and connections with the urban center are reflected in the houses. Many farmers have houses of the so-called "semi-permanent" type, i.e., cement plastered adobe walls and an iron roof.

The second major study area is located in southern Gusii Land close to a small market center called Sengera. The market consists of about 30 business establishments and a tea collecting center. The area is connected with the main asphalt highway by a dirt road in bad condition and is therefore, both in distance and through communications, remote from the district center. In the area there are also two schools, and a Roman Catholic mission with a clinic. The other important Christian denomination is the Seventh Day Adventist Church.

Sengera has a lower population density than Suneka, about 360 persons per square kilometer. The two sub-clans residing in the area are the Bokimonge and the Bosoti. Due to their remoteness from the urban centers and markets, Sengera farmers have had to rely less on off-farm income than their counterparts in Suneka. The farms are bigger, about two to three hectares, and cash crops have more recently been introduced in the region. Tea is grown as well as sugar cane, bananas, maize, finger millet, and beans. Native and exotic cattle, goats, sheep, and poultry are kept.

In general, houses are constructed of mud with a thatched roof. Few "semi-permanent" houses exist. That the population is more agriculturally oriented than that of Suneka is evident in the greater reliance on agricultural income, and fewer permanent or "semi-permanent" houses and larger farms. The area is close to Maasai Land where a number of farmers rent land for low fees.

In addition, I also spent considerable time in southern Bassi, my principal field assistant's place of origin. This is also a more recently settled area where the first inhabitants came in the 1920s and the farms are still larger than those

in Wanjare and northern Kisii. In the course of fieldwork, I also visited and conducted interviews in a number of other places in Kisii District. Kisii Town where I carried out a special survey is briefly introduced in Chapter 5.

Material and methods

The material used in this book derives from three different sources.

The research is mainly based on the traditional anthropological method of participant observation. On the basis of my knowledge of the locality I devised and conducted a number of surveys and structured interviews. Three main surveys were made. Two of these were general socio-economic surveys made around Suneka and Sengera and covered most of the people living in a pre-selected area. I randomly selected 30 families from each of these two surveys. I interviewed at least one member of each family. These interviews concerned detailed information about economic, social and demographic data with emphasis on bridewealth related questions. The interviews were prolonged and incorporated into social visits I paid during my stay in the communities.

In the pre-selected study areas all cohabiting and married men and women (including widows) were recorded. At least one of the partners in marriages or cohabitation unions were interviewed (see Appendix 2). The two surveys will henceforth be referred to as General Surveys and the samples as Survey Samples.

I also conducted a survey of 60 employed women in and around Kisii Town with respect to marital relationships and bridewealth. These employed women were reached by visiting their places of work such as hospitals, schools and offices.

Finally, a number of interviews were conducted with specialists of various kinds in different localities. These were elders known for their knowledge of "custom", history, and customary law, chiefs and assistant chiefs, priests, lawyers and magistrates. In addition, I have also had access to M. Udvardy's field notes from 1983, mainly concerning the situation of the aged.

Written sources

For the pre-colonial and colonial period, I made extensive use of court records and the colonial records in the National Archives in Nairobi. The court records derive from the tribunal courts and the District Officer's court of appeal in Kisii Town. These records are lodged at the tribunal court in Ogembo "Ritongo Kuja" and at Kisii courthouse. They originate from the period between 1938 and 1967. The sheer mass of records and the absence of any reference system made it impossible to draw a representative number, wherefore I had to pick records at random. Up to the late 1950s, the records mostly contain cases concerning cattle debts associated with bridewealth. The records include the statements of the parties involved and witnesses' accounts as well as judgements by court elders.

The National Archives in Nairobi contain a number of early documents relating to Gusii "customs" and history; some by administrators with degrees in history. In general, the authors of these documents present honest, although sometimes mistaken, information which can sometimes be cross-checked with oral data and with the works of professional anthropologists. I also examined the files of the historical society of Cardinal Otunga High School, which contain much archival material from the Roman Catholic missions as well as administrative records from the colonial period.

Finally, one other major source for my bridewealth statistics is the bridewealth records kept at the Nyabururu Mission. These are notebooks where the father or brother of a bride, and the father of a groom or the groom himself could, through the priest, record the bridewealth which would be paid. They had to put their thumb prints under the statement, which was witnessed by the priest. The accuracy of these records is supported by my own interview material as well as by P. Mayer's research (1952). They are accurate up to 1950 when an official limit on bridewealth was imposed. From that year it is evident that the records reflect the maximum legal amount rather than the real payments. I have therefore used my own interview material from that year onwards.

The ethnographies by the Mayers' and the LeVines' (see references) provide excellent background data for the character of Gusii society as it was in the 1940's and 1950s. I have relied to some extent on their account for this period, and have complemented it with the oral historical information from my own informants.

Notes

[1] By norms, I mean, "the standards or rules which state what people should or should not do or say under specific circumstances" (Holy & Stuchlik 1983:81). By legal or jural norms and rules, I refer to those norms which can be subject to some form of socially sanctioned intervention if breached. These are rules which ultimately may be referred to third party adjudication, e.g., the elders' council. The term social norm is used to denote acknowledged standards of behavior which are not sanctioned through society-wide backing (cf Fortes 1969:89).

Goals are those ends which people strive for in entering transactions. Goals motivate people's actions towards some desired state of affairs (cf Holy 1986: 7). Values are used to denote those standards according to which people compare the outcomes of actions and which are used to order and compare choices between alternative actions (Barth 1981:91f).

[2] The colonial power divided Gusii Land into administrative areas which roughly followed indigenous political divisions. Indigenous divisions included clan clusters, subdivisions or "tribes", in P. Mayer's terminology, which became locations during the colonial regime. The locations were divided into sublocations corresponding to clan territories. The original 8 locations have recently been divided, thus increasing their number.

PART I.

Pre-colonial Gusii society

Chapter 2

Pre-Colonial Gusii Society and Economy: A Model

Introduction

This chapter contains a brief historical sketch of the Gusii environment and economic organization and an outline of the social and political structure of their society. It seeks to reconstruct the Gusii society of the pre-colonial and early colonial period, ca. 1900 – 1920.[1] Due to the nature of the ethnographic reports and the historical accounts collected, this part is to a great degree male-centered. Most of my old informants were males and much of P & I. Mayer's material is oriented towards a male Gusii view of society.

The "model" presented here describes the basic characteristics of social structure and organization, political organization and the cultural concepts which the Gusii held about their own society. It gives the necessary framework into which bridewealth and marriage in the pre-colonial period must be set. Chapter 3 describes and analyzes bridewealth in the social and cultural context given in this chapter.

The settlement of Gusii land

The Bantu-speaking Gusii live in western Kenya (see Maps 1 & 2) and inhabit hilly, highland country 50 kilometers east of Lake Victoria. Their territory today comprises modern Kisii District which lies at elevations between 1, 500 and 2, 000 meters and presently covers an area of about 2, 000 square kilometers.

Rainfall is ample and concentrated to two rainy seasons: August to November and March to June. The rainfall is evenly and reliably distributed both temporally and spatially and falls in sufficient quantities for productive agriculture. The fertile soils make Kisii an agricultural area with great potential. Today the forest, which formerly covered the hills, has completely vanished and every arable space is utilized under the burgeoning population pressure.

The ancestors of the Gusii arrived in this area from the Kano plains, near Kavirondo gulf in the north. According to oral tradition, the Gusii were fragmented into several groups, one of which settled around the Manga Ridges, while others moved west towards Lake Victoria where they settled

among the Luo. During the 18th and 19th centuries, Gusii speaking groups moved continuously in response to attacks from surrounding peoples. Around 1820 a group settled west of the Manga Ridges which provided a natural defence against the Kipsigis who continuously raided the Gusii cattle. Meanwhile several splinter groups moved through Luo Land and the southern parts of the present district, fighting with Maasai, Kipsigis, Luo and other Gusii groups.

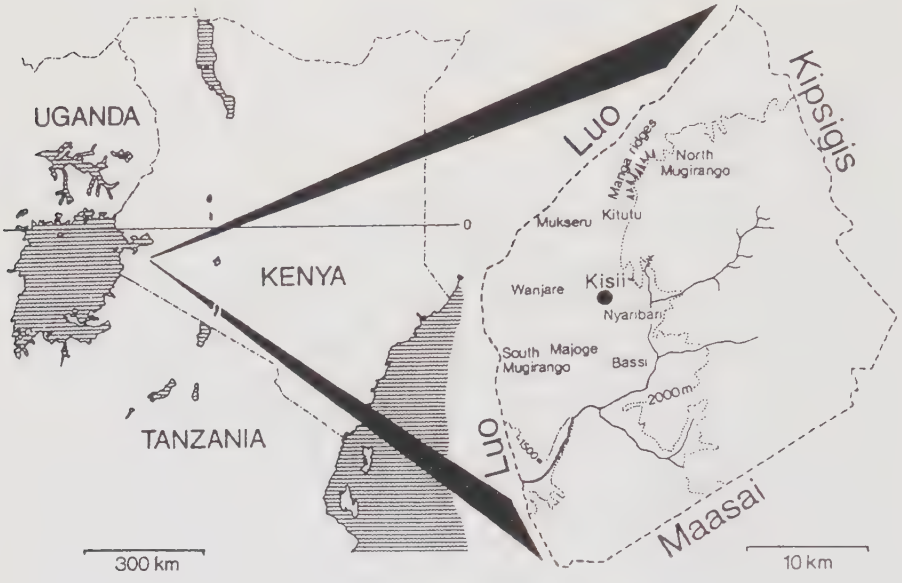


Fig. 1. Map of Kisii District showing approximate area of settlement of Gusii subdivisions and neighboring ethnic groups ca. 1910. Present-day district boundaries and the site of Kisii Town are included.

By 1900 we find the Gusii living around present day Kisii Town, leaving a buffer zone of forest and savanna between them and the Kipsigis to the east and north, and the Maasai to the south and east. They were divided into eight subdivisions: Nchari (Wanjare), Getutu (Kitutu), North Mugirango, South Mugirango, Bassi, Machoge (Majoge), Nyaribari, and Muksero (Map 1). The total population was estimated by colonial administrators in 1907 to be around 75,000 persons (Northcote 1908).

These subdivisions shared a common language, culture and traditional history. They also had totemic animals and occupied distinct territories (except for the mixed clan settlements in the Getutu chiefdom). There was much conflict and constant feuding between clans of different subdivisions over cattle and grazing.

Economy

The combination of fertile soils and favorable precipitation made Gusii agriculture very productive. Indeed the Gusii considered their highlands to be the granary for the drier regions of the Lake Victoria basin (Northcote 1908). Shifting cultivation was practiced with a one to two years growing period and a six to seven year fallow. Homesteads were located along hill slopes and moved short distances periodically, when cultivation plots were abandoned. The staple crops were finger millet (Swahili: *wimbi*), sorghum, beans and sweet potatoes. Cultivation was done by both sexes with a division of labor for certain tasks while other tasks were performed jointly. Families regularly produced a surplus of millet for emergencies, beer brewing and exchange but due to the limited trading network and unpredictable demand, no sustained high level of surplus production took place.

Since soils were fertile, rain plentiful and locusts few, the work involved in cultivation was not time consuming. The periods of agricultural activity were concentrated to certain seasons. Clearing land and hoeing was done in December – January, sowing of finger millet in March – April, weeding in May-June, and harvesting in August – September. Due to the bimodal rainfall, beans could be planted in October and harvested in February. Sorghum grew a second crop which was harvested in June. During the busy seasons neighbors formed communal work groups for the performance of hard and monotonous labor. Even during these periods of work only a few hours of work per day were necessary for agricultural pursuits.

Both men and women were engaged in farm work, but whereas men were responsible for and actively engaged in all the different agricultural tasks, women's duties mostly consisted of more arduous, time-consuming tasks such as hoeing, weeding, and planting. The men concentrated on tasks such as clearing new gardens and fencing, and the women prepared the soil for planting, hoeing and digging. The division of labor was not strict and men also helped with weeding and harvesting. Old men did no agricultural work at all and spent most of their time hearing disputes and discussing cattle and events in neighborhood. Old women had greater freedom than younger women in that they could, e.g., drink beer and enjoy a certain independence in decision making concerning production, but it is not known how long they continued to work in agriculture or who determined when they should stop.

Land was corporately owned by the clan, and rights to cultivation were obtained by clan members through clearing. Each wife had her own plot of land on which she raised food for herself, her children and her husband. The family head also had his own field, the *emonga*, which served a dual purpose. It was cultivated for emergency stores by all the wives and used as a field where the head of the family grew grain for exchange. Although the wives cultivated the *emonga* for reserves, the man had to do his own cultivation for his trading activities.

Polygynous families of a lineage segment cultivated contiguous stretches of land, and had several such parcels at different stages of cultivation (I. Mayer

& P. Mayer 1965). Daily cooperation took place between the wives of brothers and first cousins, and other close neighbors, in so called *egesangio* and *ekebosano* work groups. These were informal day-to-day groups based on strict reciprocity in labor input on each others' gardens (P. Mayer 1951:11).

On certain occasions when work had to be done quickly or was particularly heavy, a larger work group could be summoned, the so-called *risaga*, which consisted of members of the larger neighborhood lineage segment. To call such a group, beer had to be brewed and food prepared for the workers. Mostly women would join the work party while the men sat together drinking the beer. When men wanted to grow crops for exchange purposes they called a male *risaga* where men did all the work. The formal summons of the *risaga* had to be made by the husband, but wives could also take the initiative and prepare for the event without consulting the husband (P. Mayer 1951:10).

Socio-political structure

The Gusii nation shared a common language, culture and historical traditions but never acted as a unit. Its tribal divisions were the largest effective political units. The subdivisions were the maximum unit in which constituent clans could obtain criminal compensation from each other. Gusii social and political organization was structured as a hierarchy of segmentary descent groups arranged as interlocking units of increasing ramification. Only two of these groups had specific terms: the exogamous clan, *eamaate* and the four generation lineage, *riiga*.

1. The segmentary structure

The whole Gusii nation was considered as one gigantic descent group descended from an eponymous ancestor, Mogusii. The Gusii nation was in turn divided into eight subdivisions, most of which occupied specific territories. The genealogical grid was not one of exact, known or demonstrated connections with the eponymous ancestor. The *riiga* (pl. *amaiiga*) was the largest group whose members could trace exact genealogical relationships. It consisted of the agnates, and their wives, of an adult male ego; descendants of a common great grandfather with second cousins as the remotest collaterals. The *riiga*'s (I shall also use lineage to denote this descent group) ramifications therefore depended on the generation of ego, and a man's children belonged to a lineage with a slightly different membership from his own. The children of ego had a different great grandfather and thus would not as adults belong to the same *riiga* as ego's male patrilateral second cousins' children. Such lineages were in turn considered to be agnatically related through schematic genealogy which ignored the real line of descent where, starting from a mature ego, six to seven ancestors are listed in ascending order to the last, who is regarded as the clan founder.

Such descent was putative and relationships were based on large groups which could be fitted into the segmentary model as blocks of individuals. These blocks were subdivisions of the exogamous clan, *eamate*, and named after their ancestors (see Figure 2).

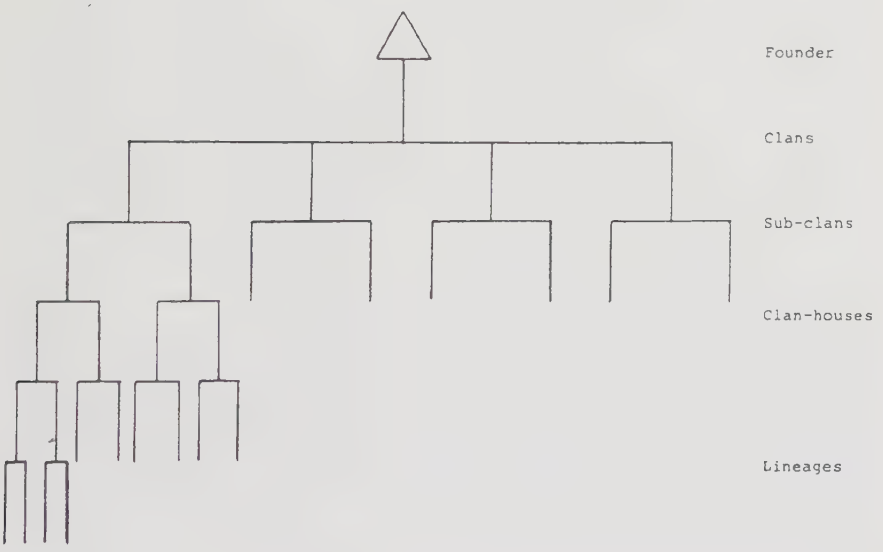


Fig. 2. Schematic representation of segmentation in a clan-cluster. The four constituent clans are believed to have been founded by sons of the founder. Segmentation can also occur at other levels, e.g., between subclans and lineages. Several segments are recognized as originating from sons of different mothers but of the same father.

This socio-political structure is still visible in the present day organization of Gusii Land. The Bokione clan, for instance, in Majoge subdivision is divided into four segments: Bokimonge, Bosoti, Bomotoro, and Bomocha, each named after a putative common ancestor. Their exact relationship to him is not remembered, although elders today may provide a genealogy from themselves to that ancestor. Another form of segmentation also occurs, the house, *enyomba*, where a number of lineages are grouped together as descendants of different wives of an ancestor. In accounting for the wives of the male ancestor, these women's names are thus remembered.

When conceptualizing the categories of people within the segmentary genealogy, Gusii use the concepts of *enyomba* (house) and *egesaku* (patrilineal descendants). *Egesaku* is used to denote the descendants of a single man, either a living man whose children and grandchildren are his *egesaku*, or a male ancestor. *Enyomba* is used when groups with different ancestors are discussed, and when people talk about the descendants of, e.g., Moigare and Nyakundi simultaneously, they are expressed as the houses of Moigare and Nyakundi respectively. These are houses within the *egesaku* of an earlier common ancestor. In this way the Gusii view their social universe as one large *egesaku* which falls into a number of units called *enyomba* depending on the

context. Thus the segmentary relativity of categories of groups is expressed along the line of genealogical depth.

Above the clan level of segmentation the ordering of descending groups of people became less well defined. Each subdivision or cluster of clans consisted of clans of two classes. There were those whose putative founder is believed to be a descendant of the ancestor of the subdivision, e.g., the founder of Majoge, Ntindi, had four sons who became the founders of the four clans Bokione, Majoge, Boochi, and Bombaba. In many subdivisions there are also clans which are regarded as coming from other tribes than those to which they belong, and some clans cannot be integrated into the genealogical charter at all (P. Mayer 1949:12). While a number of subdivisions include such clans there is no evidence that this situation had any practical implications (except in Kitutu subdivision). The ancestors of the tribal subdivisions are listed as descendants of MoGusii[2].

This structure conforms closely to the classical model of a segmentary lineage arranged according to a universal genealogical grid (e.g. Evans-Pritchard 1974). The genealogical charter provided a model of as well as for society. It may be viewed as a classification of the social universe according to which each Gusii could relate him/herself and other individuals. The segmentary model defined with whom to cooperate and with whom to compete in specific situations, and who shared specific rights and obligations in relation to property and resources.

This normative scheme of classification was strictly based on patrilineal principles and therefore women's position in it was ambiguous. A wife was a part of her husband's lineage and shared its loyalties but at the same time she retained informal links with her natal family. She visited her brothers and parents occasionally and helped with agricultural tasks and received gifts of food. Despite this she was dependent on the fortunes of her husband's lineage for land and on her sons' success in establishing their wealth and influence in their descent groups.

Criticism has been levelled against anthropological studies of societies with strong patrilineal bias as accepting males' ideology of how their society is organized. Evans-Pritchard's presentation of Nuer segmentary patrilineal structure has been shown to obscure the women's position. The critics maintain that Evans-Pritchard portrays women as passive parts of the patrilineal descent system who accept the male view of their society (Tiffany & Adams 1985). In a study of Evans-Pritchard's ethnography, Gough (1971) shows that actually almost half the adult women lived independently of men, relying on their own kinship networks. Among the Gusii the patrilineal ideology and reality seem to have overlapped to a much higher degree. Unmarried adult women were seldom found. Although wives often lived apart from their husbands, they had to be affiliated with an agnatic descent line other than the one into which they were born. Therefore, although women had a different view of their society, they also partook in the practical circumstances created by the form of patrilineal descent structure that existed.

There were no other structural principles around which other aspects of social organization, such as age sets, political offices, or secret societies, could crystallize. The segmentary social space was also replicated in physical space. The *amaiiga* (s. *riiga*) occupied discrete pieces of land within a clan division and these in turn claimed territories within the clans. The latter in most cases inhabited a continuous area of clan land within the subdivision.

The conjunction of social with physical space is today conceptualized by the Gusii to the extent that they express social distance as physical distance. For example, when stating exogamic rules they will say: "You must not marry too near." or "You must marry from afar." Or when discussing social interaction with distant agnates: "They live too far away;" and "I never received or gave any help to those people because they are too far away". When they talk about neighbors they mean close agnatic relatives.

Clans within the cluster were constantly involved in feuds and warfare against each other but could mass and ally themselves against a common enemy from another tribe. However, it is also known that the principle of segmentary opposition was broken and clans from two subdivisions allied against a third in another subdivion (P. Mayer 1949:12). Politics was understood and expressed according to a segmentary model of the social universe (Ochieng 1974:199; R. LeVine & B. LeVine 1966:70). The Gusii express conflicts in pre-colonial days as conflicts between clans, tribal divisions and lineages.

The lineage was conceived as growing and dividing and those men and women who had many descendants were remembered as founders of a clan segment by such expressions as: "They moved from father". Other people had fewer descendants who could remember them and hence their names were forgotten, i.e., "They stayed with father" and did not form segments of their own. The lineage is named after the hearthstones, *riiga*, to illustrate the fact that as the three stones on which food is cooked can be moved away from each other, so will the members of the lineage also separate through lineage growth and segmentation (P. Mayer 1949).

The individual incentives for reproduction were expressed in terms of lived continuity to ensure that one's name "was remembered". Each homestead head, and his wives, wanted as many married sons as possible in order to be remembered in the larger genealogical grid of the clan or tribe, i.e., "The son who became many" (P. Mayer 1949:33).

2. The lineage

A number of homestead heads and their descendants could trace exact genealogical relationships and considered each other to be real kin. These belonged to a *riiga*, a lineage whose members based their interaction and relationship on kinship, with rights and obligations stemming from the kinship status of individuals. Members of a *riiga* shared common potential heirship to each others' wealth.

The main object of inheritance was livestock, and in the absence of sons a man's cattle and goats would be inherited by his full brothers. If full brothers were lacking, his half-brother inherited, and if he had no half-brothers, his father's brother's sons (or father's brother if alive), and if he had no first paternal cousins the inheritance would go to his grandfather's sons' sons, and so on to the limit of known kinship ties.

Close agnatic kin had obligations to assist each other with food, cattle loans and labor. If a man was short of cattle for marriage his agnates were obliged to lend him some cows. Outside this group of kin there were no specific obligations other than voluntary agreement and defence. Hence potential heirship to each other's property and defined jural obligations between its members made the lineage a corporate group with definite common rights to property in relationship to other groups in the society (Fortes 1953).

The homestead heads and their families together cultivated several contiguous stretches of common fields on which each wife had her own plot. These families jointly cleared and took an area of land for cultivation. Their members also cooperated regularly in work groups, *risaaga*, which were called for heavy agricultural tasks. In addition, homesteads within the lineage cooperated in production and defence. If two lineages wanted the same piece of land fighting could ensue in which the lineages fought each other.

The cattle belonging to the members of a lineage were herded jointly by the young men who stayed together in a cattle camp, *ebisarate*, away from their fathers' homestead. When guarding the cattle and searching for pasture the lineage youths would jointly resist enemies. Although each animal had its specific owner, tending and defending the cattle was a joint effort by male lineage members.

The *riiga* also constituted a minimal group for conflict resolution. Its elders formed a council for the discharge of legal matters around a wealthy and politically influential man. The *etureti* elder (local big man) in turn could represent the group in conflict with other lineages.

Although the lineage members cooperated they held no property under common use, except pasture. Interest was relative and brothers might themselves fight over an inheritance; more frequently half brothers fought against each other. "Brothers fight at their mother's breast" is a saying illustrating that rivalry can occur at every point of segmentation (I. Mayer & P. Mayer 1965:53).

3. Clans and subclans

Lineages in turn could fight each other but converged in common defence against groups of lineages with different ancestors. The named subdivisions within the clan jointly controlled land and defended themselves against other such units. Such divisions, in contrast to the clubs used in inter-lineages conflict, fought each other with spears (P. Mayer 1949:11). Through population growth subclans would reach a size where they separated from the

parent clan and adopted exogamous principles, forming a new clan. Therefore it is probable that larger subclans on the verge of seceding were also engaged in feuds and territorial expansion at the expense of the other subclans (P. Mayer 1949:32f).

The exogamous clans normally consisted of three to four subclans and acted as separate political units, i.e., they were territorially defined and fought each other with spears. Within the clan disputes were supposed to be settled by arbitration and no compensation could pass between its members in cases of homicide (P. Mayer 1949:11).

Gusii kinship[3] terminology is classificatory, merging lineals with collaterals. Real brothers, cousins of both sexes in all lines through siblings of either parent and their spouses, including the children of mother's brothers, father's sisters and mother's sisters in the same generation as ego, are called *momura ominto*. In the mother's family, lineage and clan of origin nearly all generation and sex categories have the same terms applied to them as agnates except for the first ascending generation where the men and their wives are called *mame*. Real sisters and first female cousins are called *mosubati ominto*, meaning young woman of our house. In any clan where ego has kinship connections, individuals of ego's parents' generation are called *tatamoke* (small father), *makomoke* (small mother). All members of the descending generation are called *omwana one* (my child), grandchildren generation are *omochokoro* and grandparents' generation are *sokoro* (grandfather) and *magokoro* (grandmother).

The clan had dominion over clan land and its members had incontrovertible rights to use land under its control. Land was acquired through warfare between clans whose members joined through massing in conflict with other clans. Conquered land belonged to the clan as long as it could defend itself against other clans. Between clans buffer zones without cultivation were formed. Clan settlements were contiguous, allowing no space where another clan could drive in a wedge separating members from each other (P. Mayer & I. Mayer 1965:59-60). Between members of the larger segments of the clan joint territorial defence was frequent, and membership of the clan gave males irrevocable rights to cultivate the land controlled by their clan. A man and his family could settle anywhere on that land, not necessarily near close relatives. However, in practice as the population grew families forming new segments would leave and settle close to their near relatives.

Gusii descent groups up to the clan were territorially based, and although a clan often contained "dwellers", *abamenyi* (s. *omomenyi*), from other clans they had to be incorporated into the patrilineal descent group of the host clan, forget their origin and inter-marry. If "dwellers" did not want to assimilate with the host clan they had to leave after one generation.

4. Social and economic relationships within the homestead

Gusii society consisted of families constituting structurally equivalent corporate groups, which acted as legally and economically independent units

represented by a male head. This was the largest structural unit to contain differentiation of status and relations of ascribed authority. The extended polygynous family was geographically divided into two units, the village where the married men and women and daughters lived, *omochie*, and the cattle camps (*ebisarate*), where the young, unmarried men lived. The latter were located on the grazing areas where the young men guarded the families' herds and conducted raids against the cattle of other clans and subdivisions. As soon as a man's father died he gained full social independence and established his own homestead. An old man could have many wives, as well as sons who, together with their wives, were under his authority.

Specific kinship terms were used to denote the immediate family: *tata* – own father; *baba* – own mother; *omosacha* – own husband; *omokungu* – own wife; *moibori* – own co-wife; *momura one* - own son; *mosubati one* - own daughter.

The homestead head, *omogaaka bw'omochie*, had absolute formal decision-making rights to its cultivated land, its produce and wealth (livestock). The head was the ruler of his family members and in relation to other homesteads, owner of all homestead possessions. He dealt with disputes between members in his homestead and no one could interfere unless he specifically asked for their advice (R. LeVine 1964:67).

Daily life within the homestead was governed by a specific code of behavior, *nsoni,* which means shame or respect. *Nsoni* entails a number of rules concerning avoidances between people who apply specific terms of address with each other. These rules are mostly concerned with anything to do with sexuality and other bodily functions and prohibit the mentioning of sexual matters in the presence of the parent's or children's generations.

The homestead in turn was differentiated into component parts. Each wife and her children formed a semi-autonomous unit called a house, *enyomba*. Within the extended family, each house had its own fields, cattle and specific property rights, which were delimited from all other houses. The internal relationships between members of a homestead were governed not only by the head's decisions but also by a set of customary rules which to some extent limited his authority.

While the homestead head had sole jural authority over the extended polygynous family, his power was limited not only by customary rules but also by the need for daily cooperation with sons and wives, and family solidarity. Favoritism by the head towards one house, or transgression of customary rules concerning house property could lead to conflict, which homestead heads wanted to avoid at all costs (R. LeVine 1964:71). In the pre-colonial period, the frequent inter-lineage and clan conflicts must have made it very important for a father to have the solidarity of sons and wives.

Although wives had no formal authority, their position as mothers of sons and producers of food gave them a certain leverage against their husbands. A wife had two possible means of retaliation against what she considered unfair behavior by a husband. She commanded more loyalty from her sons than their father did, hence a wife with adult sons could incite them against other

houses and the husband (cf S. LeVine 1979:9), or she could leave her husband and flee to another clan where her husband he could not reclaim her.

She was a manager of her house's property and could exercise independent decision-making in day-to-day affairs. In addition, she could sometimes successfully resist her husband's decisions, for example, in his attempts to enforce loans between houses. Her success in so doing depended on assistance from adult sons. Within the limits of the law, she was entitled to lend and obtain cattle through barter with grain she had grown, and to pass these cattle on to her sons (P. Mayer 1950a:63).

A wife was the focal point of the house and together with her sons, protected its wealth against incursions by other houses or by the homestead head. The wealth of a family was divided into different categories according to the rights which pertained to the statuses of the different members and the manner in which the wealth was produced. The main wealth consisted of livestock, especially cattle, and grain.

Grain produced by a wife or any of her children belonged to her house, but the husband was entitled to receive food and beer for himself and visitors. He should not take grain produced by his wives or children for personal exchange purposes. Husbands had their own fields, *emonga*, on which they produced grain for barter with their own labor.

Wives had usufructuary rights to land which they cultivated and controlled (cf S. LeVine 1979:9). Boundaries between differents wives' gardens were well-defined and demarcated with stones or poles. Such rights extended over fallow periods after which she could return to her plot. Women's access to land was automatic. As wives they were allocated plots by their husbands, and if they were living with families other than their husband's they would also obtain land for their own use. Cattle wealth was divided according to three categories. First, *chiombe che'nibo*, cattle of savings, was the husband's personal herd consisting of beasts acquired through inheritance, raiding, and barter, and could be used by him as he pleased. He could, for example, give them away, lend them out, sell them, or slaughter them. A household head was expected to assist sons with marriage cattle if they had no sisters whose bridewealth they could use.

The second category of cattle wealth was beasts obtained as brideprice, *chiombe che'subati*, the cattle of daughters. As a couple's children grew older (for simplicity, I use a "model" family consisting of an equal number of boys and girls) and the eldest daughter married, her bridewealth payment was received by her father. However, he could not keep this bridewealth as his own personal property. Bridewealth payments belonged to the house of the newly married daughter, to be used for the specific purpose of bridewealth payment by any of her full brothers upon marriage. Thus the law explicitly gave brothers the right to marry with cattle derived from their sisters' bridewealth.

If one house had marriageable sons but no marriageable daughters cattle could be borrowed from a house where there was a surplus of marrying

daughters. Such a loan had to be repaid. A debt, the Gusii says "is like a piece of a broken pot, something hard which never gets destroyed". A debt between houses could be inherited by grandsons of the borrowing house and had to be paid back to the heirs of the lending house. For example, the homestead head had the right to borrow those cattle which were received as bridewealth for the eldest daughter in each house, and use them to pay bridewealth for a second or third wife. It was the responsibility of the new wife's house to pay back the ensuing debt.

Third, the house had exclusive rights to any cattle obtained through its members' sale of grain, through gifts given to the house by the family head or other persons, as well as offspring of the house's own cattle. An unmarried son could also grow his own grain for exchange against livestock which would then be his own property. If a husband together with a wife produced grain for barter against livestock, they would share the livestock in relation to the amount of labour each had put into production of the grain used for the trade (P. Mayer 1950a:30). However, according to my informants, cattle obtained in raiding expeditions by unmarried sons were the property of their father but were often shared between them.

When the homestead head died, the extended family household broke up, with each house separating from the other houses to form an incipient family household. Voluntary loans, as well as those coerced by him during his life-time, might be left standing until his death, after which such irregularities had to be rearranged between the surviving houses. All sons of a house inherited the cattle as a single group, dividing the animals between them (for details see P. Mayer 1950a:30). Inheritance of unallocated cattle was divided between houses with a bias in favor of the senior wife's house. The law also provided for a larger share to go to a younger house if its sons were not yet married. They were entitled to some "help" since they had not yet established their own families.

Upon the death of her husband a wife gained considerable independence in decision-making. She then became the manager of her sons' estate and no livestock or land could be allocated within the house or alienated without her approval. If a widow was of childbearing age she entered a leviratic union with, usually, one of her husband's full-, or half-brothers whose main duty was to have sexual intercourse with her. However, the children of such a union belonged to the dead husband, not the *genitor*. The levir had no authority over the widow but was merely a male representative of her family in dealings with other homesteads. This latter would be taken over by the eldest son when he married and became a father.

In addition to the legal power which a father exercised over his children he also had recourse to supernatural punishment in the form of the curse. Both a father and a mother could curse their daughters and sons but it is claimed by informants that it was most common for fathers to curse their sons. Parents' legal sons were in some ways extensions of themselves through whom they continued to exist. The unity between father and son is illustrated by the current belief that a son's behavior towards his father will reflect on the son's

future life. Today, as well as in earlier times, the Gusii believe that if a son is disrespectful towards his father his own children will be disrespectful to him in turn. If a son disobeys his father the latter will utter a wish that the son's children will despise him as he has despised his own parents. Cursing may take place if a man continues to elope with woman after woman and does not obey his father's wish that he stay and marry one woman; if a son is a thief and thereby brings shame upon his parents; or if a son utters abuse of his parents or does not give them help with work or money. The father may then tell the son that he will be the victim of the same behavior as he has shown to his parents.

The basic principle behind the curse was that whatever the son did towards his father and mother would in turn affect him. If a son's behavior became offensive, involving theft from his father, beating the father, or murdering someone, a father could utter a curse stronger than one described above. A curse, *koragereria*, was imposed by a father stripping naked, lying on his back and pointing his penis towards the sky, urinating and uttering such "evil words" as: "You will die far away" (in Luo Land, in the forest or along the roadside), or "You will be mistreated by your sons as you have mistreated me".

Mothers could also curse their children by lifting their skirts to show the sexual organs and then shaking the skirt vigorously, saying that: "You came from here and now I cut you off".

The strongest version of this curse made the victim a wanderer, *riochi*, a man without descendants. A curse was considered to be inheritable and if not exorcised could be patrilineally transmitted through several generations, giving rise to a high incidence of premature mortality among that son's descendants, and to destruction of their property. As it also, in fact, affects the descendants of the cursing man, destroying a line of descent, it rarely occured and was considered insane by some.

Hence there was a kind of unity and continuity between parents and children, connecting them by what one informant called "a breath of life" which continues through the generations of descendants. For men this breath of life is only constituted through descent; not through biological children begotten outside marriage. In a sense it is this mystical unity and continuity which continues beyond death where the ancestors are the source of their living descendants' well-being.

Conclusion

The Gusii rationale for cooperation and competition together with rights and obligations was styled according to this genealogical charter. It provided a map of the social and political world as well as a rationale for its recreation through lineage growth and fission.

The segmentary model as an analytical construct for understanding political processes has recently come under considerable attack (Holy 1979; Verdon 1982; Karp 1983; Galaty 1979). They have pointed out that the seg-

mentary model describes the actors' view of their own society rather than the actual processes therein. These critics have been especially concerned with the segmentary model as applied to the classic cases of the Tiv and Nuer, and have endeavoured to show that political action in these societies, as well as in others reported to have a segmentary political organization, such as Bedouins (Peters 1967) or Maasai (Galaty 1979), does not follow discrete segmentary principles. The problem is how to analyze a segmentary structure if it is not a proper analytical tool but a folk model.

Holy suggests that a segmentary model of society is an ideology held by individuals about how their society is organized while their actions are guided by other considerations, so-called operational models which are situation specific. He maintains, following Smith (1956:65-66), that the segmentary ideology allows for flexible action among persons and groups while preserving a uniform view of society (Holy 1979:13-14). Salzman (1978:68) argues that the segmentary model is a social structure in reserve, which is adapted to conditions where periods of spatial mobility and territorial stability alternate. The segmentary model at one point is an ideology which is not followed, but it is preserved because it becomes useful and adaptive during certain periods.

Thus, segmentary models are actors' models which are not necessarily congruent with actual behavior and socio-political configurations. In the Gusii case, however, there seems to have been a strong overlap between actual behavior and model with respect to political action and local social interaction, especially on and below the clan level (excluding the incipient Kitutu chiefdom). The Gusii clans were to a great extent territorially based and therefore segmentary distance followed spatial distance. In addition, there were no crosscutting socio-political or economic structures or links offering any alternative models for action, i.e., operational models in Holy's terminology. However, the correspondence of the model to social form varied through time. As Shipton (1984:620) remarks, population pressure during the colonial period actually reinforced the segmentary agnatic ideology in East African societies (see chapter 4).

While this model of social classification neatly covered the male universe, it must have been different from a female point of view. They actually had two sets of descent groups to which they were oriented. Even if marriage cut them off from their natal lineages in a ritual and jural sense, women maintained reciprocal and sentimental ties with parents and siblings. Hence, for them the segmentary model for conflict and cooperation must have created divided loyalties and identity.

Since the whole model of their society was based on agnatic descent the principle of agnation was the only means by which a lineage could be established. The only possible way to create agnatic descent was through bridewealth payment. In reality other ways of incorporating persons or groups into a lineage existed. A group of families could leave their natal clan and be allowed to live as settlers on the land of a host clan. After a few generations they would stop intermarrying with their hosts and through genealogical fiction become incorporated into the clan. Secondly, individuals

born to unmarried daughters were incorporated into their mothers' brothers' clans.

Third, clan membership could be achieved through adoption. In all such cases the real relationship had to be reconstructed to fit agnatic descent ideology. Hence the bridewealth transaction was indispensable for the maintenance of the society as perceived by its members. Polygyny, many sons, lineage growth and bridewealth form a cultural model of causally integrated concepts for social reproduction and personal ambition (cf. Parkin 1978 about Luo). Thus the Gusii viewed their society and family growth as a consequence of bridewealth payment through which a man obtained many wives who produced many children, forming a lineage segment.

Notes

[1] The account is based on oral history collected by myself, earlier ethnographers' reports (P.& I. Mayer) and colonial records. The evidence is fragmentary and I have mixed written material with informants' statements, which makes it difficult to specify the exact provenance of the data in the running text.

[2] MoGusii. He in turn is today considered to be the brother of MoKikuyu, ancestor of the Kikuyu, and MoLuyah, ancestor of the Luyah people. The Gusii thereby integrate two other Bantu societies in Kenya, into their genealogical charter.

[3] This subject has been thoroughly treated by I. Mayer (1965a) and Nerlove (1969).

Chapter 3

Bridewealth and Marriage

Introduction

Having outlined the social and political structure in the previous chapter I attempt here to describe the role of bridewealth in the pre-colonial society. This chapter is also the result of a reconstruction and an ideal model of the relevant structural and organizational features that I believe operated in the beginning of this century. I begin by describing the marriage procedure and transfer of bridewealth after which I account for the structural aspects of bridewealth payments, the rights and obligations involved, the norms surrounding the transfer of the bride and bridewealth, and the fulfilment of the marriage contract. I also treat the ideas behind bridewealth, the appurtenant cultural notions and symbols, and thereby seek to grasp its significance. Finally, an account of the political and economic interests is presented which corresponds to the organizational level or the social form emerging from individuals' interactions and strategies.

Marriage procedure

The traditional marriage ritual has, to my knowledge, not been performed since the 1950s, and I found no informants who could give a detailed account of its execution in the beginning of this century. The following description is based on my informants' recollections complemented by information from P. & I. Mayer and early colonial records. It is a reconstruction from fragmentary data and therefore does not claim to be complete.

For the sake of analysis, the marriage procedure may be divided into four periods: the search for a bride and the wife-givers' agreement to start preparations for marriage; the bridewealth negotiations and the transfer of most of the livestock due; the *egechabero* or honeymoon period; and the wedding ceremonies, *enyangi*.

1. Initiating the marriage

The initiative for marriage was taken by the man's family. In the case of a young man, his father would appoint a kinsman or kinswoman in the clan where he sought a bride to act as a go-between, *esegani* or *omokobi*. The *esegani* was often related either through matrilateral or affinal ties, for

example a mother's brother or his sons, or through a married clanswoman. He/she investigated a number of prospective marriage partners in another clan. Such searches were made in order to find a girl who conformed to certain standards of, e.g., diligence and courtesy and, of the utmost importance, who came from a family which was free from rumours of containing witches. There was normally a difference in age between the bride and the groom. Females were married at the age of 14-15 years while males often had to wait until they were 25-30 years old.

The *esegani,* after having received acknowledgement from both sides that the proposed match might be suitable, was asked to tell the suitor to visit the girl in question so that the young couple could get acquainted. If the suitor accepted he would go together with a few male age-mates and see the girl. This first meeting is called *ekeerano*. They were received by the proposed bride and a few of her friends who served them food and drink.

Control over daughters was not legally sanctioned. If a daughter eloped her father would not attempt to take her back but would wait for the lover to pay bridewealth. Such a lover was, however, not under any obligation to marry her and could refuse without the father being able to claim compensation. Even if she had become pregnant, which meant that the father would realize a much lower brideprice for her, he was not entitled to compensation (Logan 1916).

2. Bridewealth negotiations

If the young couple agreed to the match, the bride's father went with seven or eight male elders from his lineage to negotiate the bridewealth with the groom's father and his lineage age-mates. A young man could not conduct bridewealth discussions; only an elder marrying a second wife could conduct his own negotiations in person. The negotiations took place in front of the cattle pen where the wifetakers led the animals out two or three at a time to be inspected by the bride's party. Animals could be accepted or rejected, and the wifegivers started the negotiations by demanding a much larger number than they expected to receive. The groom's father would in turn begin his bidding by offering as little as possible (P. Mayer 1950a:7). Since no one would enter into negotiations without having enough cattle to pay according to the going rate, after a day's bargaining they would normally reach a settlement. When an agreement was reached about the number of livestock, the ownership was transferred to the bride's father. A few days later, the bulk of the cattle were taken by young men from the bridegroom's family, together with the go-between who acted as a witness to the transfer, to the bride's home. One or two beasts were left to be paid at the marriage ceremony some months later.

As soon as a settlement had been reached in the bridewealth negotiations, the ownership of the cattle was transferred to the wife-giver, although actual physical possession would take several months. All children born subsequently were the husband's irrespective of who was their biological father, unless a

divorce took place. If his wife went to live with another man all children born during that time were considered as belonging to the man who had paid the bridewealth. As will be shown below, the most important aspect of this transaction was to give the man rights *in genetricem* in his wife as well as making the woman a socially defined mother.

The number of livestock transferred as bridewealth varied over the years and between different transactions. The number of livestock involved was independent of the legal function of the bridewealth. The amount that was due did not affect the rights gained by the husband. In other words, whether the agreement was for two or 20 head of cattle had no effect on the legal implications of the transfer.

The term for bridewealth through the 1940s was *nyaika*, which means replacement. It "replaced" the daughter. According to P. Mayer (1950a:15), before 1890 the bridewealth consisted only of cows plus one bull. The elders he interviewed maintained that goats were included during the great cattle plague due to shortage of cattle. Before the 1890s goats and bulls were given as additional presents.

Old informants corroborate P. Mayer's findings. During the cattle shortage, up to 80 goats could be paid as a bridewealth. In the beginning of the 1900s when the cattle population had increased in numbers, bridewealth consisted of one bull, plus a number of goats with cattle making up the bulk. Although they were accompanied by calves which were not counted, and not returnable in case of divorce, only adult beasts were counted as bridewealth (P. Mayer 1950a:16). The goats included were the customary gifts to the bride's maternal grandmother, the bride's elder sister and mother and for the wedding ceremony as well as substitutes for cattle. The goats were not returned in case of divorce or a wife's death.

3. The honeymoon, ***egechabero***

After the completion of negotiations, the young men who brought the cattle were given food and drink before they took the bride to the bridegroom's homestead. She stayed up to two months in the bridegroom's home and in the cattle camp of the young men. During this period the bride's mother was to send the young couple a basket of stiff millet porridge and a calabash of sour milk (still a favorite drink) at least three times. The gifts were carried by young girls since the bride's mother was not allowed to visit her daughter in person in the first year after the marriage. Each time the basket was empty it had to be sent back filled with grain to the bride's mother together with the calabash. When the calabash was returned a little milk had to be left. If all the milk was consumed, the parents would say that the young couple was "wishing poverty on them" (P. Mayer 1950a:19).

During this period, for the first time in her life, the girl had no obligation to work, but assisted in household tasks in order to impress her mother-in-law. She dressed in her best clothes and ornaments, and was offered the best pieces of food and attended constantly by her husband's friends. When she

went back to her parents she could if she wished put forward any strong objections against completing the marriage. This period was a recognized opportunity to break up the union. The girl's consent, or at least her token acceptance, was considered necessary. Of course, if satisfied with the match, the parents would bring pressure to bear on a recalcitrant daughter to at least put on a show of acceptance. If the bride's father was to some extent dissatisfied with the bridewealth arrangement it was also possible for another suitor to intervene during this period by offering a higher bridewealth and prompt payment (P. Mayer 1950a:50-51). Although the bridewealth transaction had been formally concluded, the marriage procedure was final only after the wedding ceremony.

At the ending of *egechabero*, the bride was accompanied home by four to six male age-mates of the bridegroom who stayed over night at the bride's homestead. They were received by girls who were age-mates of the bride. The following morning the boys left. The bride stayed at her parental home to assist in the preparation of millet beer, made from large quantities of finger millet that her father bought in exchange for goats. Large amounts, i.e., approximately 30 pots, were needed for the wedding celebrations (P. Mayer 1950a:21).

One or two months after the end of the honeymoon, the bridegroom's parents asked the wifegivers to arrange for the completion of the marriage. The wife-givers brewed beer and invited the bridegroom's father with two other male elders from his lineage. They ate and drank beer and discussed the arrangement for marriage, *enyangi*, the payment of the outstanding bridewealth and the replacement of any animals that had died. The remaining beasts were handed over at this time after which the agreement was finalized by the slaughter of the bull of discussion which, together with quantities of beer, was provided by the bride's father (*ibid.*:10).

A few days after the discussion, the wifegivers sent two pots of beer to the wifetakers with an invitation to the marriage ceremony. The bride went to her mother's brother who slaughtered a goat for her and gave her presents of beer and millet flour, which she took to her parents' homestead.

4. The wedding ceremonies, ***enyangi***

Enyangi was divided into two nights, beginning with *egetaorio*. The groom and his age mates went to the bride's homestead where they were met by the bride's male age-mates with whom they engaged in wrestling matches. In the evening the bridegroom's family provided a bull for slaughter which was eaten by all the guests. The *egetaorio* night was open to all who wished to attend, which included a large number of classificatory cousins of the bride and groom. The night was spent singing, dancing, eating and drinking (*ibid.* :11).

On the following day, in contrast to the *egetaorio*, a serious magico-religious ceremony, *echorwa*, was held. About 12 guests from each family attended (*ibid.*:12). A special functionary, the "marriage priest", *omogaka*,

or *omongina bw-enyangi*, who could be either male or female, was called to act as a master of ceremonies (P. Mayer 1950b:114). A goat of *enyangi*, a she-goat provided by the bride's father, was slaughtered. The groom and his age-mates left the homestead in the morning to spend the day in the bush, where he painted himself in war paint and smeared himself with ghee. Meanwhile the bride dressed in her ceremonial attire, consisting of, *inter alia*, a broad belt of beads around her waist. In the evening, the groom and his party of five young men, two boys and a girl, arrived and stopped at the gate to the cattle pen. At this stage the bride had to give her consent for them to enter the compound. It was an opportunity for her to claim a goat from her father before letting the groom pass. When allowed to proceed into the house through the cattle gate the men sat down and ate the sacrificed goat. At this time, the bride, who had been sitting in her mother's bedroom, passed by the male elders and handed the groom a calabash. The bridegroom in turn gave her a piece of stiff millet porridge, *obokima bw'obori*, on her open palm (P. Mayer 1950b:116). The bride and her attendants were shaved afterwards.

On the third day, under the direction of the marriage priest, a cup was passed around. When the bride received it she should kiss it to show her acceptance of the groom. At this point the bride would delay taking it from the groom's hand.

The groom was again anointed with ghee. The bride and an uncircumcized girl entered the cow pen through the cattle gate carrying cows' horns full of ghee, with which she anointed three younger (real or classificatory) brothers of the groom. These boys left the cattle pen, and when they met the rest of the groom's party and the bride's brothers, they claimed to have severely beaten the bride. The bride's brothers retorted that they had prevented them from beating their sister. The bridegroom's group went to the door of the house that led to the cattle pen, *eeri*, where they lined up behind the groom who held a big shield of buffalo hide. The bride came from her mother's room, confronted the groom, and tried to take his shield from him under the encouragement of her kin, while the bridegroom, encouraged by his relatives, tried to hold on to his shield. After some time the groom surrendered his shield to the bride and food was served.

The groom and his age-mates now left with the bride, who carried a calabash on her left side. Accompanied by a number of uncircumcised girls and boys, they walked to the groom's homestead. The shield was placed in the outer room, *eero*, where a cowhide had been spread on the floor. The groom and his age-mates sat down. The bride and her age-mates stayed outside the door of the mother-in-law's hut. She was not admitted immediately. The groom's mother and other women in the homestead chastised the bride, the mother-in-law hurling abuse at her, commenting on her deficiency as a wife, or saying that she did not cook well, or was lazy. They teased her, jostled her, smeared cattle dung on her and applied skin-irritating leaves to her body. During this humiliating ritual the bride was not supposed to cry or show any emotion. This continued until stopped by the mother-in-law. Afterwards, the bride would join the rest of the party on the cowhide in the *eero*.

The first night at her husband's homestead was the time for the man to demonstrate his sexual prowess in front of his age-mates. If the bridegroom already had a first wife, a goat would be slaughtered as a sacrifice the same day, but if he was a bachelor they waited three days during which time the goat was not fed so that its intestines were completely emptied. The entrails of the slaughtered goat were used for divination. After the slaughter of the goat, the bride donned the marriage rings, *ebetinge*.

The bride then walked back home escorted by a classificatory, unmarried sister, and an uncircumcised boy and a girl. She carried with her a calabash, the boy carried the hind leg of a goat and a cane, and the girl carried a walking stick and a goat skin. At her homestead they entered her mother's house through the cattle gate, instead of through the front door of her mother's sleeping quarters. They sat down to eat in the reception room and stayed until the next morning. Meanwhile old women fashioned the goat skin into an apron to be worn by the bride which, together with *ebetinge,* signified that she was a married woman. The bride and her party then returned to her husband's home. The boy carried a horn and a cane; the bride and her sister each carried a basket, *ekee*, containing millet flour. After returning to the husband's home, the couple had to have sexual intercourse.

The next day the clan elders from the husband's lineage arrived and were served beer. The wife came to the reception area of the hut carrying a baby on her back and an *ekee* of the millet flour from her parental home. The bridegroom brought with him an *ekee* of meat, after which the wife submitted to the name-taking ceremony. The wife knelt before the elders who mentioned six to eight names. She selected one to be her new name as a married woman. Then she stood up, took the *ekee* of millet flour, and went to her mother-in-law's room. She was called back again to take the container of meat, which was given to the children to eat.

The new wife and her sister-in-law then took an *ekee* of flour to her parent's home where she was asked to tell her new name. They gave her sticks[2] tied into four bundles with bull tendons, which were called *emesuto* (a word of unknown meaning) which she took with her when she returned to her new home, accompanied by her sister-in-law who carried an *ekee* of millet flour. On this occasion she could be given a goat to take to her mother-in-law, money and metal wire. Upon reaching her husband's homestead in the morning she had to fetch firewood and distribute it in the homestead. At this time the groom removed all ornaments worn during the ceremonies. Again, the wife was allowed to return to her parent's house and was there given porridge and blood from a cow. Her brothers tapped the blood, which their married sister collected in a cup, carrying a baby on her back. When she returned to her husband's homestead, she cooked the blood together with some vegetables and stiff millet porridge which she had brought back with her. The food was then eaten by the husband's family. The following morning she cooked food, and went to her husband who pretended to sleep. She called him by name, and told him that the food cooked by his wife was ready. The husband then ate, after which he took a cane and pretended to beat the wife,

who ran away with a child on her back. This marked the end of the *enyangi* ceremonies. After this the wife could obtain a heifer from her parents and give it to her husband in order to be allowed to eat millet in front of him. This was the cow of chewing millet, *engombe ygotakuna obori*.

5. *Livestock transactions*

The initiation of the wedding period included a number of livestock transactions between wife-takers and wife-givers that were outside the bridewealth settlement. This account follows P. Mayer (1950a). He divides the transactions into two stages of the wedding procedures. First the *egechabero* period which followed the initial transfer of bridewealth, and the *enyangi* period which followed the transfer of the remainder of the bridewealth. The following list represents the ideal range of animals exchanged. In reality, by using one beast for multiple purposes, several could be omitted.

Egechabero

1. Bull of *Omyega*.

   During the honeymoon period the groom had to slaughter a bull and send the choice cuts to the bride's parents. The groom and four young age-mates ate the breast and forelegs. The remaining three legs were carried by the young, unmarried men to the bride's father together with the kidneys, head, skin and intestines.
2. The goat of laughter.

   During the *egechabero* period the bride lived with her husband at his cattle village where they received the bride's girlfriends who brought beer with them. The groom slaughtered a goat for them on this occasion.
3. The bull of *amaikanse*.

   The next day the groom might slaughter a bull for them. The two hind legs and the skin were sent to the bride's mother.
4. Bull of *egekobo*.

   At the end of *egechabero* the bride returned home with young men from the groom's homestead. Her parents had to entertain them all night and slaughter a bull as a return for the *omyega* bull.

Enyangi

Animals provided by the wife-givers:

1. Bull of discussion.

   The main payment of bridewealth had to include a bull which was slaughtered by the bride's father after the final transfer of the last cattle before *enyangi*. It marked the completion of the transfer of bridewealth. It was eaten jointly by the elders from both sides.

2. Goat of *enyangi*.

A she-goat provided by the girl's father to be sacrificed on the *enyangi* night.

Animals provided by the wifetakers:

1. Bull for ritual garments.

A bull had to be slaughtered to provide skin for the ceremonial headdress and jacket of the marriage priest.

2. Bull of *egetaorio*.

The bridegroom brought a bull to be slaughtered on the night of *egetaorio*. It was eaten by important guests and by the crowd of visitors present.

3. A white goat for sacrifice.

The bridegroom provided a white he-goat to be sacrificed at his homestead three days after the *enyangi*. Its skin was made into the apron worn by the wife, which distinguished her from an unmarried girl. The left hindleg, the intestines and stomach were taken to her parents. The tail and the piece with the lowest ribs were given to the husband's "best man".

4. Goat or cow of heat.

The mother of the bride was entitled to a goat or heifer as a compensation for her labor of brewing beer for the festivities.

5. Goat of the sister.

The bride's elder sister was entitled to claim one goat from the bridegroom during *enyangi*, and had to give two pots of beer in exchange. This was given because the elder sister was "like a mother to the bride".

6. Goat of the grandmother.

The bride's mother's mother was entitled to receive one goat from the groom at the time of *enyangi*.

Marriage and the status of husband and wife

1. The status of wife

The status of a wife was inscribed in her position in the house, *enyomba*, and as a member of her husband's clan and *riiga,* she gained rights to resources. According to P. Mayer (1950a:57) it was the marriage ceremony which supplied sanctions against a wife's desertion or adultery. Bridewealth, he writes, "serves primarily to make men fathers – *enyangi* makes them husbands". He continues: "bridewealth primarily makes women mothers whereas *enyangi* makes them wives". In other words, according to P. Mayer, it is only through the performance of the marriage ceremony that a woman is cut off from her natal family with respect to kinship duties and joined to her husband's (*ibid.*:63). However, in the same article, he contradicts himself by claiming that bridewealth also gives a husband rights in his wife's labor capacity.

P. Mayer provides no direct information supporting his assertion that *enyangi* was necessary to give a husband uxorial rights, nor do I have any support for it in my field material. The importance of the marriage ceremony for transferring women from one lineage to another, and for providing a basis for sanctions against adultery and desertion of the wife is therefore not clear. As P. Mayer (1950a:9f) notes, during the time of his field work, *enyangi* was only performed in Kitutu, Nyaribari and North Mugirango and not in the other divisions (today it has completely disappeared). From his account it is clear that in the areas where *enyangi* was not performed husbands nevertheless acquired, through the payment of bridewealth only, uxorial rights and protection against a wife's desertion and adultery (*ibid.*:11). Although the material does not allow any definitive interpretation I therefore do not believe that the role of *enyangi* was to ensure marital rights and obligations.

Notwithstanding, judging from the Mayers' material and my own field data, it seems reasonable to assume that *enyangi* was a universal feature of marriage in many of the clan clusters in the early 1900s.

Enyangi completely separated a woman from her natal clan and family with respect to rights and duties. The whole ceremony emphasized the cutting off of a daughter from her native clan, and the bride was expected to show considerable resistance to her removal from her home by the bridegroom's party. She would hide herself in her grandmother's house and when she left her home she was admonished not to look back.

The previous description of *enyangi* contains a number of elements which symbolize the transfer of fertility from the wife's family to the husband's, as well as elements emphasizing a gradual change of status and separation from her natal lineage. An analysis of fertility aspects is outside the scope of this book and I lack material necessary for such a detailed interpretation[3]. My analysis focuses on those elements which I believe to signify separation. Firstly, during the whole marriage procedure it was the bride who was the most active party. She visited back and forth between her husband's and her parents' homesteads, carrying things and undergoing ceremonies.

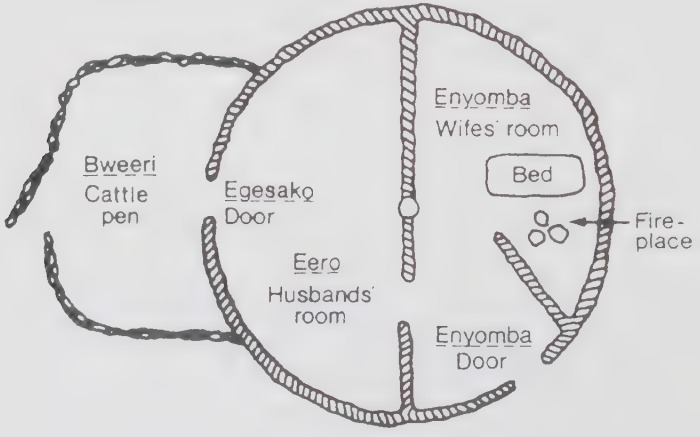


Fig. 3. Plan of a traditional Gusii house. Adapted from R. LeVine & B LeVine (1966).

Secondly, movements within the homestead took place in a symbolic space, and the homestead's boundaries were crossed in different ways in order to express status changes. During *echorwa* she stayed in her mother's part of the house (see figure 3) and moved through a door to the father's room or reception area where she encountered the groom with his shield, spear and warpaint standing in the outside door, the cattle door. Here they both engaged in a ritual in which she removed his shield while he offered token resistance. Thus the groom stood at the door on the mens' side, which is the reception entrance for visitors and which leads to the cattle pen. Standing in the area from which the patrilineage grew, the cattle pen, in the area for visitors, the groom represented a visiting patriliny. He held a shield and a spear and was painted in warpaint representing another, hostile clan. The bride moved from her mother's room, the site of her natal house's fertility, to the male area and finally removed the protective and aggressive symbols of her husband's lineage, thereby joining his lineage which was no longer enemy of hers.

The next step of ritual separation, which took place after the main *enyangi* ceremony, was the visit to the husband's homestead where the wife received her symbol of married status: *ebetinge*, two ankle rings, one on each foot. The rings were about two centimeters thick and consisted of leather strips encircled at intervals by four metal rings. The metal was painted white and the leather red. The ankle rings signaled to everyone that she was a married woman, and warned other men not to receive her because she was a runaway wife. The removal of the *ebetinge* was believed to cause magical danger.

She then walked back to her natal home where she now entered through the cattle gate as a visitor from another *omochie*. When she returned to her husband's homestead, she was given a new name by the elders, to use as a married woman. Finally she again visited her parents "to tell them her new name". Thus the cycle of separation and integration was completed.

There are further indications that daughters were not considered to be real members of their clan and family: only a son could be. Before the colonial period, Gusii clans were often involved in armed conflict with each other, and still during the 1940s they said: "Those we marry are those we fight" (P.Mayer 1950b:123). The destiny and identification of daughters with their husbands' clans was indicated by the saying "daughters are enemies" (P. Mayer 1949:7). When a child was born people would ask if "it was of the cattle pen or outside". A girl was "outside". It was thereby implied that the daughters were outside the patrilineage, which was symbolized by, and sprang from, the cattle pen (I. Mayer 1975:270).

The ritual separation of a woman and her merging with her husband's clan was also implied in Gusii funeral rituals. If a man died, all his wives and close agnates were supposed to shave their hair, but this was not expected of his daughters and their children. When a woman died her husband's agnates and their wives would shave but the woman's natal kin would not. Her natal kin attended the funeral but briefly. Finally, a woman had to be buried at her husband's home, and it was considered very dangerous if she died at her natal

home. The so-called "gray hair rules" which prohibited a woman from growing gray hair at her parents' homestead also precluded an old woman, who might die soon, from staying in her native clan territory (P. Mayer 1949). Today, an unmarried woman who dies at her parents' homestead cannot be buried there but has to be taken far outside it.

Finally, just as a woman had no rights or obligations towards her natal family, her children had no kinship rights and obligations vis-á-vis their maternal kin. The relationship between a woman and her natal kin was of a personal nature, and etiquette prescribed regular visits and the bringing of gifts only once or twice a year. Her merging into her husband's family is also expressed in that a wife does not terminologically distinguish her parents-in-law and brothers-in-law from her real parents and siblings. Both are called *tata* (father) and *baba* (mother), or *momura ominto* (brother). The parents-in-law in turn call her "my child" (*omwana one*). The only in-law distinction is *kamati*[4] for her husband's sister.

However, a woman retained personal and reciprocal ties with her natal home. She had a special relationship with the brother who used her bridewealth[5]. He was indebted to her for making it possible for him to marry. This debt was acknowledged through the gift of the *emesuto* heifer, which became her house property. When visiting her brother she could take food from his wife's granary and give her orders. Her brother was also supposed to pay her respect and be soft-spoken towards her.

2. Marriage and the status of husband

Once the bridewealth had been paid husband and wife formed a legal conjugal union in which each had certain rights and obligations to the other. The husband was expected to have sexual intercourse with his wife, build her house, clear the bush, and prepare the land for, and assist in cultivation. However, if the husband did not fulfil these obligations no legal consequences ensued. A woman could never complain to any legal authority. Although a wife could return to her parents if maltreated, her father or brother could not impose sanctions on her husband. They could only negotiate the matter with him and his close agnates. A wife could run away, but could never apply for divorce. Although payment of bridewealth gave the husband authority over his wife, there was no provision or compensation for the loss of her labor. Rights in a wife's labor capacity were not stable and enduring.

A wife was expected to obey her husband's directives, perform agricultural tasks, prepare food, execute all manner of household chores, cook for visitors, and behave respectfully towards her husband's friends, relatives and parents. In short, a wife was under the complete formal authority of her husband and no party outside the homestead could interfere with his treatment of her. He could even kill her at will without any repercussion other than the possibility of revenge by her sons.

If the husband was for some reason not satisfied with a wife's behavior he could return her to her parents. They were then obliged to send her back with

a cow or a goat as compensation. In case of marital disputes, and when the wife ran away, the husband would generally have the support of his in-laws, who admonished the daughter to behave properly and obey him. Thus, the payment of bridewealth and the completion of the marriage ceremony gave a husband rights *in uxorem* to the extent that his in-laws would take his part.

Because of the enmity between clans, a husband whose wife had run away to a man in another clan would not normally try to recover her. He would just wait, knowing that she would have to come back sooner or later with any children which she might have borne during her absence. They were legally his and therefore had to return to him. They would not be accepted in any other family. Their status in another home would be inferior and they had no inheritance rights.

P. Mayer (1950a:57) stresses the legal consequences of bridewealth payment. He writes:

> [Bridewealth] acquires [for the husband] rights connected with her capacities for child-bearing and for working: but whereas the right to her labour may be lost without compensation...the right to her children is enduring and incontrovertible.

He continues:

> This right of custody was formerly the only effective guarantee of the father's other rights over his children. Chief among these is still the right to the bridewealth received for daughters, involving a corresponding obligation to provide bridewealth for the sons. A related right is that of receiving compensation if any of the children are killed. Apart from this the legal father is entitled to all the natural advantages of being head of an *egesaku*. Its members should work with him, fight with him, promote the fame of his lineage by their numbers and good conduct, tend him in sickness, bury him when he dies, and there aftermake the proper sacrifices to his spirit (*ibid.*:60).

3. Relationship between a husband and his affines

The families of a husband, his brothers and parents on the one hand, and the wife's family on the other hand refer to each other by the collective term *abako*. The mother-in-law is called *makobiara*, as is the wife's father's sister. Father- in-law is known as *tatabiara* by his son-in-law. The wife's brother and sister's husband are called *mokoyone*. The parents of the spouses call each other *ekorera*. These terms apply to all collaterals of the same sex and generation within the demonstrable genealogical relationship. *Mokyone* is applied to the whole clan as a form of courtesy (I. Mayer 1965:62).

A husband had very little interaction with his brothers-in-law and parents-in-law. The relationship was one of deep respect, *nsoni*. In-laws were *abansoni*, people towards whom he observed a number of avoidance rules and a strict code of behavior. They were on peaceful terms and did not fight each other, but avoided interaction. When meeting they had to practice a number of avoidances such as not shaking hands (i.e., not touching each other), or eating certain foods with sexual connotations such as maize, eggs, or sugar cane. I have not heard any explanation for these food taboos but maize and

sugarcane are obviously phallic in shape. Eggs are produced by hens, which women were not allowed to eat.

No sexual words could be spoken, and a son-in-law should not get drunk in his in-laws presence, lest he behave disrespectfully. Visiting was in practice limited to certain occasions such as funerals and marriages. When visiting in-laws a man should take care not to stay overnight at their homestead, which would show a lack of respect.

Exchange of gifts or loans was extremely rare. As one old man put it: "In pre-colonial days there was no generosity between *abako*, only in rare cases could you get some food from them". However, in the case of famine, a wife would go to her parental home and ask for food. Visits to in-laws are today made about once every two years early in the marriage, and were probably not more frequent in the pre-colonial days. As the years of marriage passed, visiting ceased altogether.

Although two families connected by marriage did not fight or attack each other's property, such peace only extended to the immediate group of the three generation agnatic kin of the wife. Indeed, feuding and cattle raiding against other members of a wife's clan were not affected. Husbands sometimes even used their wives to aid them in attacks on the latters' native clans, sending them as messengers to obtain ransom for captured members of their natal clans (R. LeVine 1959:66).

The enmity between Gusii clans is partly a consequence of the logic of the segmentary structure through which competition prevails between higher level segments, i.e., clans. Also, the growth of a man's lineage depends on cattle wealth and the giving away of cattle in bridewealth promotes the growth of competing lineages.

Finally, the segmentary social classification requires the establishment of unambiguous agnation and the denial of matrilateral relationships (i.e., affinal from the perspective of the husband). A man wants full authority over his sons, and to be their revered ancestor. The fact that the sons' mother's father and brother are his kinsmen too must be denied as a social reality. The in-law relation is thus a potential threat to a man's agnatic link to his sons, but at the same time necessary for its existence.

This dilemma was handled by a kind of neutral relationship in which the in-laws had very little to do with each other. They were on peaceful terms and did not fight each other, but avoided interaction.

The bridewealth contract

In contrast to societies where bridewealth is paid in installments and accompanied by gifts and counter-gifts throughout the marriage, Gusii bridewealth involved a once-only transfer with respect to legal possession of the cattle. The physical transfer was to be completed within a few months, at the *enyangi* ceremony, when the one or two beasts remaining at the wife-takers' home were given to the wife-givers. The payment of bridewealth established a contract whereby both parties were obliged to keep each other in possession

of the rights transferred. The detailed prescriptions for compensation were designed to achieve a balance in prestations between the parties, not to develop further interaction outside the contract.

Both the wife-givers and the wife-takers were obliged to ensure that the other was in possession of the livestock and the woman respectively. If any of the cows included in the bridewealth died or was stolen it had to be replaced by a new animal. Theoretically, the wife-takers were bound to guarantee forever that the wife-givers would remain in possession of the full bridewealth. If a cow died but left a female calf, then this was considered a replacement and there were no demands for a new animal. If, however, this animal died without leaving any progeny, the wife-givers could demand a new cow. This obligation could continue through several generations of people and cows. If, e.g., A had paid bridewealth to B, and B to C and one of the latter's bridewealth cows died, C would go to B for replacement and he in turn would go to A, the original giver (P. Mayer 1950a:38-39).

On the other hand the wife-givers were obliged to ensure that the wife-takers were in possession of the woman. If a young wife died, she should be replaced by a new wife, e.g., a classificatory or real sister, or otherwise the bridewealth had to be returned. When a wife died young and childless, a new wife would be given to the man who was obliged to pay an extra cow to his father-in-law. If a wife was injured or incapacitated before she had lived long with her husband, then the wife-givers should return a number of cows commensurate to what was considered adequate compensation for the loss of her labor capacity. Claims for repayment could not be forgotten, and were regarded as standing until honored.

If a man had paid bridewealth of 10 cows and his wife died, leaving two children, two cows per child would be deducted from the bridewealth and the rest returned, i.e., six cows. If he had four children, nothing would be returned because with a certain number of surviving offspring it was argued that a man's lineage was secure. If she died leaving one married son, no return of bridewealth was made since the lineage of the man had good chances of surviving into the third generation. If a married daughter survived it was said that "you have received cattle for your daughter with which you can get another wife" (P. Mayer 1950a:46). Finally if a woman lived to old age without producing any surviving children she was considered to have paid for herself by producing millet for exchange against cows with which her husband could marry a second wife. Her labor capacity is here important only as the amount needed to replace herself as a child bearer.

No bridewealth would be returned in the case of death or emergent barrenness if the wife had "paid for herself" by: having a married son who continued the lineage; having a married daughter whose bridewealth could be used to obtain a new wife; or growing old in the homestead. In the latter case she had paid for herself through a lifetime of work, i.e., produced enough grain to be bartered for cattle to replace those paid for her. In case of the wife's sterility there was a partial return of cattle (P.Mayer 1950a:42-45). It should be added that the clarity of the rules was not matched by an

automatic adherence to them. On the contrary, disputes frequently arose about such matters.

The character of Gusii bridewealth as primarily serving as a means of affiliating children to a husband and his patrilineage becomes even clearer if we consider the divorce rules. A husband could not divorce his wife and also keep his children. He must give up both and receive the full bridewealth back. Hence divorce was rare, and took place only in cases of witchcraft, or when a wife had run away to a hostile tribe (P. Mayer 1950a:51f). This divorce rule is comprehensible if we see bridewealth primarily as affiliating children to a man, thus making divorce a separation from a wife's child-bearing capacities. Only if the children were defective, i.e., in cases of witchcraft, was it regarded as a logical course of action because children were thought to inherit this trait from their mother. The chances of recovering wives (and their children) who had run away to enemy territory were nil and hence a divorce would be demanded by the forsaken husband.

Therefore divorce was extremely rare. As long as the husband had custody of his children he did not press for divorce. If the woman ran away to her parents they would return her to her husband. If she went to a man in another clan, but left sons with her husband she would always come back to them, since they would take care of her in old age. Husbands therefore waited for the return of their wives, rather than trying to fetch them from the other man's home. While the political situation constrained male movements between clans, women could visit at will. While men were fighting, women conducted exchange of goods between members of different clans. If a wife left her husband to live with another man she would be known as a *ritinge*, whose children sooner or later returned to their legal father. Children born of a runaway wife were known as *ekerantane*, brought thing, in the homestead of their mothers' lovers. Sons only had rights of inheritance from their legal father and would eventually return to him. In the words of an old informant: "You cannot completely cut children off from their father. Irrespective of how useless he is they will inherit his name and his land". A man had rights in children only as a *pater* but not as a *genitor* and he could not obtain such rights as long as another man was legally married to his lover.

Assembly and allocation of bridewealth

The house, *enyomba*, is the focus of family growth and growth of *egesaku*, the descendent patriline. The wealth of a house was livestock and children, which were its inalienable *etugo*. *Etugo* comes from the verb *ogotuga* which means "to rear or to feed" (I. Mayer & P. Mayer 1965:69; P. Mayer 1950a:63). Cattle are *etugo* because they provide the family with sustenance. They provide milk, meat, hides, and, through barter, grain for nourishment. In addition they are used as bridewealth, and bring in wives who give birth to descendants, thereby ensuring the continuity of the house. Cattle herds also grow as people do and the growth of both is seen as dependent upon each other. A Gusii saying goes: "The cattle pen is the garden for children",

indicating that cattle wealth has the capacity of generating descendants and family growth just as the field nourishes its crops.

The cows are either represented as living animals or as debts. Once cows have come to a house through bridewealth payments, they must go out as bridewealth unless a debt is established. If a house lent its cows to another house for marriage either a debt was created or an agnatic link established in relation to the house from which the cows originated. Another example where the same principle is expressed occurs when a wife who only has daughters lends bridewealth cows received from a daughter's marriage to the son of another wife within the homestead. This was done by sonless women in order to have grandsons so that their names would not be forgotten. In such a case the children of the borrowing man count as grandchildren of the lending woman and the man is excluded from the genealogical record. Since the bridewealth did not come from his own house he is not considered to be the legal father. If there were more sons than daughters in a house and it was impossible to obtain a loan, a bridewealth herd was kept in order for it to increase so that it could be used by more than one son.

When bridewealth was received one cow, "the cow of seeing the daughter", was kept and this cow fulfilled a number of purposes. It was considered to be the married daughter's cow from which she would take as much milk as she wanted for her children. This cow was regarded as a link to the daughter and a reason for her to visit her natal home. This cow was also allowed to reproduce to form the nucleus of a new bridewealth herd and provide the heifer of *emesuto* which the mother's brother owed to his sister's son (P.Mayer 1950a:32f).

The distribution and allocation of bridewealth cattle involved only the homestead family, and there were no other kin who had rights or obligations towards their brothers' or cousins' bridewealth. A father's brother could be asked to lend cattle for bridewealth of a brother's son, but this was dependent upon circumstances and not a regular occurrence.[6]

Jural aspects of bridewealth

If a wife died or was barren, the rules of restitution emphasized her childbearing capacities rather than her role as a producer. Furthermore, a woman who had given birth to a child before marriage obtained a substantially reduced bridewealth. The divorce rules also support the notion of bridewealth as primarily giving the husband genetricial rights since the only reasons for divorce were the complete disappearance of the wife, which permanently cut him off from her reproductive capacity, or in the case of witchcraft when the children might be defective, i.e., having inherited their mother's taint.

The legal approach only conveys a partial picture of the role and meaning of bridewealth in Gusii culture. "A Gusii wants *egesaku* not merely offspring" (P. Mayer 1950a:60). But a man's *egesaku* is not merely the consequence of having children who are legally his. It also depends on his sons and

grandsons in turn paying bridewealth, thereby continuing the chain of "legal" offspring which is a man's descendent *egesaku*. Grandparents cannot be said to have rights in their grandchildren, but the latter are still their descendants by virtue of their sons' bridewealth payments. Therefore bridewealth payments not only confer rights in children, they create a bond of culturally constituted relationships continuing to grandsons, etc. Having descendants is not only a legal construction. After paying bridewealth a man can be said to have legal rights to consider children his offspring against the claims of others and to assert his authority over them. Although the payment of bridewealth entails rights in a wife and her children, this is only one aspect of the relationship which is created by the transfer of bridewealth. By giving cattle for a wife, a relationship is created which may be expressed as a culturally defined extension of a man through subsequent generations, i.e., socially instituted proliferation.

Although the woman who gives birth to a child is by definition the biological mother, bridewealth also makes her a socially recognized mother. Only through the payment of bridewealth will her name be remembered. By bridewealth transfer she will become a wife and the node of a descendent branch of the patriline. Her name will be remembered as the ancestress of a house and a lineage branch. If bridewealth was not paid her children were affiliated with their mother's father's patriline, but the mother was forgotten since she never became the foundress of a house.

It is the transfer of cattle which constructs this social paternity and creates the bond between father and son and the descendants' growth, fertility and multiplication. Indeed, biological metaphors are used to express the social fertility. For example, during bridewealth negotiations, bridegivers say: "We are giving you rain, we are the bringers of rain to you". In other words, we are the ones who give you the woman who will give you fertility and growth.

The limitations of a purely jural approach are also illustrated by the practice of daughter-in-law marriage (cf. Tobisson 1986) which, rather than being an actual marriage between women is a legal fiction whereby a mother obtains a wife for a non-existent son. If a mother has no sons, she may use the bridewealth from one of her daughters to marry a wife for a fictive son. At least today, women without sons initiate such unions in order to be cared for and remembered in their old age. In such a marriage there is no husband to whom a wife's conjugal obligations could be discharged.

This new wife is considered to be a daughter-in-law of the paying mother, and the children to be the latter's grandchildren. Here the power of bridewealth to create descent relations is manifest. In this case there is no husband who can acquire rights *in genetricem* and *in uxorem*. The children so born become the *egesaku* of the paying woman and her husband, but as their grandchildren. The same principle of descent being created when cattle leave a house as bridewealth is expressed in the examples given above where a loan of cattle between houses to a co-wife's son establishes a descent relation through the lending house. In such a case the children of the borrowing man count as grandchildren of the lending woman and the man is excluded from

the genealogical counting. Since the bridewealth did not come from his own house he is not considered to be the socially defined father. Although these examples are valid only in southern Gusii Land, they express the principle of the symbolic value of bridewealth cows as social currency.

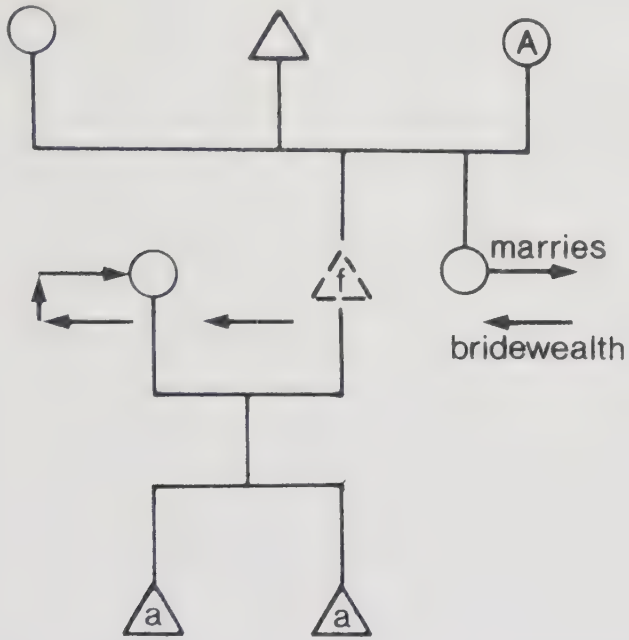


Fig. 4. Daughter-in-law marriage. Wife A uses the bridewealth obtained through the marriage of a daughter to pay for a women who becomes the wife of a fictive son. All children of this woman will count as grandchildren of A.

1. Bridewealth and a folk model of society

Further dimensions of the role of bridewealth and cattle in Gusii pre-colonial culture are revealed if social structure is viewed as a system of classification. The Gusii segmentary model of their society may be seen as a hierarchical taxonomy consisting of a series of classes at different levels, starting with an encompassing class which contains lower classes, each of which in turn contains its own subdivisions down to the smallest unit (cf Tambiah 1973:191). The segmentary structure is a taxonomy which classifies all members of Gusii society according to principles of agnation, matrifiliation and complementary opposition.

Once viewed as a system of classification of people and groups of people a number of characteristics of the bridewealth system become clear. Ambiguities which cannot be classified according to its principles are treated as special cases. They are seen as dangerous, dirty, polluted or holy, imbued by power to affect humans either negatively or positively (Douglas 1966; Leach 1976).

The logic of the segmentary classification of people demands that each person or group can be unambiguously classified: There must be no doubt as to the mother and father of whom a person is the descendant. As has been shown agnation is accomplished by the payment of bridewealth, and hence the content and means of paying must be regulated to ensure clear status of descent and marriage (cf. Parkin 1978:325).

Thus ambiguities in the working of the segmentary model create dangers to people. The most striking instance was when a father received two bridewealths for the same daughter without an intervening divorce. This was not only considered as despicable behavior, but also to bring mystical danger, *emuuma*, causing the daughter to die, and the man's other daughters to become, *abatangatangi*, wandering women without legitimate issue. *Emuuma* was not connected with the ancestors but was an effect of breaking cultural rules, an act that introduced ambiguity into the segmentary model of social classification. If two bridewealths were received for the same daughter, the descent relationship of her children became ambiguous.

Another instance involving *emuuma* was in the case of return of bridewealth at divorce or the death of a wife. If the husband and the father of the wife disagreed about the number of cows to be refunded, the father of the husband had to swear an oath concerning the number of cows received, either while walking on napier grass or by holding a tree. If he has lied his children would fall ill and die. Lying about the amount of bridewealth received and which must therefore be refunded also introduces ambiguity in the system since genetricial rights are embodied in the exact number of cows transferred at marriage.

The concept of debt, *esira*, was an important aspect in the relationship within families and between wife-takers and wife-givers. It protected the transfer from being reinterpreted as another form of social exchange, and ensured the clear affiliation of children to houses. Once a cow was included in a bridewealth transfer it could not be taken out of bridewealth circulation again. Individual cows could be alienated and used for sacrifice or exchange. Therefore it was not the specific cow received as bridewealth that counted, but the number. A cow which entered a house in bridewealth could not be permanently removed, only borrowed, thereby creating a debt. The debt ensured that the principle of agnatic affiliation according to house was recognized, and that cows received for a daughter must be replaced by another woman and ultimately a descent link through that house and mother.

Esira was also a prominent feature in the bridewealth contract, where each party was responsible for their share of the transaction. The wife-takers had the obligation to ensure that the wife-givers were in possession of the bridewealth cows, and the wife-givers that the wife-takers were in possession of their daughter's reproductive powers. By making payment at one time with a fixed and final number of cattle the Gusii expressed that the affinal relationship was one of distance and equality without further interaction. The obligation to replace dead cows also indicated a desire to keep a balance in the relationship. Corresponding values had been exchanged, and the wife and

cattle were the living evidence of the contract the terms of which hade to be kept. In some other East African societies bridewealth is paid in installments over a long period, implying continued reciprocal affinal interaction. For example in societies such as Bukusu (DeWolf 1977) and Iteso (Karp 1978), affines are political and economic allies and hence bridewealth is only the beginning of a continued exchange of favors and assistance. In these societies the son-in-law is subservient to the father-in-law and has an equal and often amiable relationship with brothers-in-law (Håkansson 1987a).

The role of cattle as symbols, the transfer of which effectuates the formation and maintenance of certain social status relationships may be further understood in relation to the Gusii model of society. Some anthropologists have suggested that goods involved in establishing and symbolizing status relations form a special category or sphere of circulation. The existence of exchange spheres in primitive economies has been observed in many cultures (Hoyt 1926; Bohannan 1955; Dalton 1978). Goods in an exchange sphere may normally only be exchanged with each other and not with those of other spheres. Certain goods may circulate for the establishment of political and social relationships. They are protected from conversion into other goods and services. Likewise the social and political relationships are created only through such a special category of goods, which is variously termed "primitive valuables" (Dalton 1978:146) or "prestige goods" (Sahlins 1972:226). Goods, mostly cattle, used in marriage payments in certain parts of Africa are also claimed to circulate as restricted goods which affect the establishment of marriage relations (Goody 1973; Kuper 1982). Such a designation of a good as a specific medium, or "signal currency" for establishing marriage has been suggested by Sansom (1976) to be applicable to bridewealth. He maintains that signal currency must be protected from becoming "contaminated" by convertability into forms of exchange other than the status relationship it is designed to establish.

Thus cattle may assume such symbolic value as signal currency, i.e., as symbolic vehicles which convey meaning in relation to the Gusii model of their society. Bridewealth reproduces not the "real" but the ideal social relationships, i.e., the model of how their social universe is constituted.

However, contrary to systems of closed circuits of prestige goods or signal currencies, Gusii cattle were not excluded from conversions outside bridewealth transactions. Notwithstanding, there existed a sphere of exchange in which bridewealth cows circulated. This sphere was created, protected, and regulated by a system of debts.

This may be envisioned as a ledger kept by each family, where the number of cows coming in and going out were counted. The cows were represented either as living animals or as debts. Once cows had gone into a house as bridewealth they had to go out as bridewealth unless a debt was established. In this way cows in general were not "primitive valuables" or signal currency. Rather than designate cows as a special medium for bridewealth, the Gusii regarded the number of cows entering as bridewealth as abstract cows. Such protection is achieved through an elaborate system of debts between in-laws and agnates concerning bridewealth cows.

The political economy of bridewealth

1. Wealth and political competition

The foremost goal of a Gusii man or woman was to have as many descendants as possible to become a founder of a lineage or a clan segment, in order to be remembered. Gusii men achieved this by marrying as many wives as possible so as to obtain a large *egesaku*. Women could not achieve this, but had to rely on their own capacity to bear children. Through her surviving sons her name would be remembered as the ancestress of a descending clan segment.

Gusii men aspired to polygyny, and a majority of those who reached middle and old age probably achieved it. Those who managed to marry two or three wives when they were still comparatively young were few and fortunate. Early plural marriage depended to a great extent on having more sisters than brothers, which enabled a young man to use more than one sister's bridewealth. Prestige, as well as political influence was accorded polygynists.

There were four ways of increasing one's herds: 1. Through bridewealth cattle from daughters' or sisters' marriages; 2. By raiding a neighboring clan or tribe; 3. Through natural increase; 4. Through trade. The first two were the most likely to give a man access to a substantial number of cattle at one time. The second was, however, somewhat risky and not undertaken without good reasons. Otherwise a man without access to a sister's bridewealth could wait for his cows to multiply and cultivate surplus grain with which he could trade with the Luo living on the dry plains between the Gusii highlands and Lake Victoria. In this area famines were frequent and the Luo would then exchange cattle for grain at border markets between Luo Land and Gusii Land. Such trade was intermittent and limited to those Gusii living close to the border.

The homesteads which produced large grain surpluses were also likely to trade beyond the confines of local exchange. The availability of large food crops attracted traders from the neighboring Luo who bartered livestock against grain at wealthy homesteads. The early acquisition of many wives led to spontaneous expansion of the work force and production, all other things being equal. A wealthy homestead also attracted young men who had left their natal areas due to warfare, famine or crimes. These, so called *abasomba*, i.e., bought people, were allowed to stay in return for work and assistance in defence, feuds and raiding. Moreover poor families who had fled their home areas for economic or social reasons attached themselves to wealthy homesteads. Such clients often utilized matrilateral ties to search for people among whom they could live.

By having many wives a man was likely to beget many sons who not only obtained cattle in raiding expeditions but also provided a small standing military force under the control of their father. With many sons it was also possible to extend cultivated acreage in competition with other families searching for the best farmland as well as to defend and acquire pasture for the cattle herds.

Through the marriage of daughters, sons' raiding, and exchange of grain, a man could acquire large herds of cattle, which together with wives were considered the chief forms of wealth. But while wealth was a prestigious goal in itself it also had political consequences which were important motivational factors. An old man expressed this succinctly to me:

> A man wanting to become big could together with his wife cultivate surplus *wimbi* and then exchange it for cows, then marry more wives and then get more surplus grain for exchange as well as daughters for which he could get bridewealth. There was an urge to have many wives and become recognized in the clan. Controlling many people was the final aim, not richness.

Apart from attracting settlers from outside the clan, such as matrilateral relatives or a sister's husband's family who were few in number, and often temporary guests, a wealthy man dominated his patrilateral kin, notably those within his own *riiga*. His homestead was generous with food and therefore a favorite meeting-place. A wealthy man, *omanda*, had many wives who could brew much beer and cook food for many visitors; he would also slaughter a bull on many occasions to feed his visitors. Furthermore he would sacrifice a bull on ritual and ceremonial occasions for the community, such as initiation, funerals, births, and marriages.

In addition to being generous with food, important men also lent cattle to those in need, for example to pay blood wealth or to add a beast to someone's bridewealth. It must, however, be emphasized that big men did not give away or lend livestock as a systematic method for acquiring clients and debtors. The Gusii distinguish between two forms of loan: Those where the lender offers a cow or bull to a man; and those where a man requests a beast for some purpose. In the first case it is considered a gift with delayed reciprocity expected. In the second it is an outright loan that has to be repaid within a stipulated time. Usually such livestock gifts and loans were made within the lineage where they were considered to be part of kin obligations and fell within the first category of loans. Loans to other clansmen were of the second type with an expected return. The borrowing man became a bought person, "like a son" to the lender, i.e., subject to his authority (I. Mayer 1965:41).

A man who could supervise a big family was considered to have the ability to rule and therefore fit to lead his neighbors as well. By virtue of having the largest number of sons he also contributed the most in the defence of the local community, a service which made others indebted to him. One of his sons was also the leader of the young men at the cattle camps.

The big man was called *etureti* elder because of the hut, called *etureti*, which he provided at his homestead for the elders to congregate in when hearing disputes. He dominated the judicial proceedings, and acted as chairman by virtue of his wealth and political influence. It was the wealthiest men who carried most weight in the male elders' discussions. The possession of many wives was necessary if a man was to be considered fit to speak at male elders' meetings and have a say in community affairs. A monogamist was despised and ignored. A monogamist was a poor man, a man with one

basket, *nyakekemo*, which referred to the fact that he had only one wife to prepare a basket of stiff millet porridge to welcome visitors in contrast to the polygynist who could offer them much food. A rich man would slaughter a bull or a goat for visitors from afar while a poor man would at most offer a chicken. A pauper was called a weak man, *omworo*, while a wealthy man was an *omonguru*, a man of power (R. LeVine 1962:523).

As chairman of the judicial proceedings a big man would back up the elders' decision with the threat of force. He used his many sons as a kind of police force with which recalcitrant rule breakers could be brought in line.

But an *omanda* not only dominated judicial proceedings and military organization, he could also use his power to exploit his poorer kinsmen. A saying went: "The property of the poor man is used by the rich man" (R. Levine 1962: 523). Through bringing actions for debt cases against poor men he could extort cattle from them, or in the case of disputes particularly over farming land poor men had to yield to the big man.

In addition the big men acted as arbitrators between lineages or between clans in disputes between members of different descent groups, e.g., regarding bridewealth debts and runaway wives. They were also peace negotiators after raids and feuds. The most important role of big men as remembered by informants was to settle disputes arising from cattle debts, either in the case of bridewealth refund or compensation for dead animals, or debts between lineage members.

In order to build his power base, a big man tried to counteract the conflicts arising from lineage segmentation. As a lineage grew in size it split up into different groups which moved away from each other, each stressing its independence. This took place at every level of the lineage hierarchy from the homestead to the clan. Just as the head of the homestead had to subdue conflicts and divisive tendencies between houses and half-brothers, the lineage leader had to adjudicate quarrels arising from the breaking up of lineages which competed with each other for land (R. LeVine & B. LeVine 1966:70).

2. Bridewealth fluctuations

The drive for family expansion and polygyny was made possible only by payment of bridewealth. Cows were necessary in order to create an *egesaku*. Therefore, almost all Gusii cattle circulated as bridewealth. Thus, the larger the total cattle population of Gusii Land, the higher the number of cows paid as bridewealth.

The continuous increase in cattle herds and the demand for wives channelled almost all cattle into the bridewealth circuit, creating a constant increase therein. Before the colonial era there were fluctuations in bridewealth corresponding to the vicissitudes of cattle production. In the early 1890s it is said that payments were around 25-30 cows while during the cattle plague in Eastern Africa which also affected the Gusii, almost all cattle died and brideprices therefore had to be paid mainly in goats or with one cow.

In the beginning of the 1900s the brideprice had risen again to six to eight head of cattle. In the pre-colonial period, high brideprices were considered to be socially disturbing, and a number of attempts by big men and leaders to limit the value of payments by decree are remembered (P. Mayer 1952). Thus political competition and the striving for polygyny had a growth effect on marriage payments. High brideprice in turn made it more difficult to obtain enough cattle through trade, raiding and natural herd growth. Young men who had few or no sisters therefore had to postpone their marriage far into their thirties and many even died unmarried. To be unmarried was to have junior status, and to die unmarried was the utmost disaster for a man and also for his relatives.

To solve this problem young men had to raid other Gusii or neighboring ethnic groups like the Maasai, Kipsigis and Luo. Increase in bridewealth meant an increase in raiding and an escalation in conflicts between the Gusii themselves. Young men undertook raids against other clans and subclans with high frequency. In addition the build up of herds also created a demand for pasture which was another prominent cause for feuds and warfare. Pasture in Gusii Land was limited to the uninhabited areas between clans, and since large tracts were forested, good pasture was usually located on hilltops and plateaus where, according to oral tradition, clashes between young herders from different clans were frequent.

The pressure to obtain cattle and pasture in competition with other groups encouraged defensive cooperation of local descent segments and conflicts with distant segments, i.e., clans and larger clan segments. This conflict situation in turn meant that members of different clans who were linked through marriage were potential enemies, and the cattle of one clan was the source of its expansion at the expense of the affinal clan's herds.

In the absence of other society-wide integrative mechanisms there were no foundations for cooperation across clans. There was no overriding political organization around which alliances could be formed. The territorial basis of descent groups counteracted the formation of factions based on criteria other than patrilineal descent. Finally, due to the generally favorable agricultural milieu, the absence of sharp environmental zones, and the differential distribution of crucial resources, trade could not form the basis for symbiotic interaction.

3. Women's independence from male control

The unidimensional character of the social and political universe of men must have offered fairly simple criteria for action and loyalties. For the women the conditions were different. A woman, although a member of her husband's lineage and clan, also had a natal family and her loyalties could not have fitted into the segmentary logic. Since women were not directly involved in politics they could pursue actions not readily open to men. Women visited their natal families and could move in areas that were dangerous to men. It is known that while the men in different clans or tribes were fighting, women

could move relatively freely conducting trade (see also BCOHS 1979). Women were usually not included as active agents in the political activitities which involved men in warfare and feuds.

This situation was exploited by women because it provided them with an opportunity to assert their independence from husbands. If a wife felt mistreated she could leave her husband and go to a clan hostile to his clan and live with another man. Runaway wives were received as replenishment to the homestead and the men with whom they settled could always hope that they would stay for life. In such a case it would be possible for his family to absorb her children into their lineage. When a women wanted to be sure that her husband would not follow her she went to a different clan cluster than that to which her husband's clan belonged.

One old male informant from Sengera, Majoge, explained that:

> When a woman ran to another clan, the husband could not claim her back because of enmity between clans. Before the colonial period there were many Kitutu women among the Majoge. They ran away from Kitutu. If there were differences with the husband they could run here where the Kitutu could not follow them because the Kitutu and Majoge clans were enemies. If a Majoge woman ran away to another Majoge clan she would be sent back because they wanted to keep the good relationship.

Although women were integrated into the political order of patrilineal descent groups, their position in it was very different from the mens'. Unfortunately the lack of information does not allow me to give a full picture of the women's situation in the pre-colonial period. The available evidence suggests that there were opportunities for women to benefit by circumventing the constraints placed on men.

Conclusion

In the preceeding chapter I have described the different dimensions of bridewealth in pre-colonial Gusii society. The purpose has been to establish the baseline against which subsequent changes can be ascertained.

Gusii bridewealth was foremost a transfer that established rights *in genetricem* for the husband and made a woman a socially defined mother. A number of aspects supports this interpretation. First are the rules of restitution of bridewealth which did not allow deduction for the loss of a wife's labor or sexual services. Second, the divorce rules reflected the importance of children rather than the wife's person. Third, a girl who had a child before marriage fetched a considerably reduced bridewealth.

Women had relative freedom of movement in a political climate which prevented men from retrieving runaway wives. If a wife felt badly treated she could leave her husband and go to a man in another clan and live for some time as a *ritinge*. Since a wife could leave her husband she had a position of leverage against him in family affairs. It is therefore possible to see the rights and obligations between husband and wife as the result of transactions

between parties in different power positions. This hypothesis, which will be followed up below, suggests that marital statuses also are defined by wives rather than solely obtained by husbands in exchange with wife-givers.

The character of Gusii bridewealth is related to the segmentary lineage structure in the pre-colonial economic and political environment. Norms regulating access to resources and relationship between people were vested in a system of segmentary descent groups which also encompassed territorial divisions. Thereby unidimensional criteria for classifying social relationships which identified spatial with social distance were established. Cooperation and competition depended on criteria based upon social distance as defined by the the segmentary structure. These criteria were relative wherefore every man outside the group of brothers was a potential competitor. As long as it was possible to expand lineage territories competition took place between high segmentary levels of clans and subclans and cooperation was encouraged within these segments.

The local build up of families through polygynous marriages and dependants was sustained by an extension of cultivated acreage and pasture which produced an outward movement towards neighboring communities and resulted in warfare or feuding. Internal expansion of the lineage pushed other lineages outwards towards other clan divisions creating conflicts between segments and finally between clans. Thus, conflicts were transferred to higher levels of segmentation while lower level segment conflicts were contained and cooperation encouraged through common defence, use of resources and the politico-legal influences of big men.

It is also within this context that the mode of bridewealth transfer becomes clear. In the absence of mediating social relationships together with the strong unilineal segmentary descent groups, bridewealth became a market-like transaction where the wife-givers tried to obtain as much as possible and the wife-takers to give as little as possible. By market-like I do not refer to the economic system of the Gusii but to the particular form of exchange that bridewealth constituted. Socio-political structure and organisation had the form of unilineal corporate groups in which common economic and political interests were vested. The segmentary model of society and the strong overlap between segmentary categories and territorial organization defined other exogamic descent groups, i.e., clans, as enemies and competitors for resources. Thus wife-givers and wife-takers met as competitors who tried to get as much out of the transaction as possible in a form of negative reciprocity (cf Sahlins 1972:195f). Bridewealth transactions took on market-like characteristics because of a specific socio-political structure which defined other clans as rivals and enemies (Håkansson 1987a). Since cattle were the source of the strength and wealth of the lineage and clan, it was important to limit the outlay of cattle as much as possible. The more cattle one could get for a daughter the better, since it could be used for more wives. There was nothing else to be gained from marriage other than a wife, i.e., neither political connections, nor trade partners.

Although the bridewealth transaction was conducted in an atmosphere of negative reciprocity and as a market-like exchange there were social structural and political factors which constrained the operations of supply and demand. Bridewealth is known to have fluctuated in the pre-colonial and early colonial period. The character of this fluctuation depended on the growth and decline of herds. According to the formalist economic approach to bridewealth, fluctuations in its value according to supply and demand would be expected. Since the demand for rights in women was great and the supply limited, growth in herds caused increased "prices". The amount of bridewealth to be paid in each contract was established by prolonged and fierce bargaining where the wife-takers tried to pay as little as possible and the wife-givers wanted to obtain as much as possible. Hence there is some justification for the economic approach. But a closer look at the mechanism of "price-setting" reveals that this is only partly so. The actual allocation of rights in women to wife-takers is more complex.

The establishment of marriages did not follow a free market principle in so far as rights in women did not go to the highest bidder. There was no search for especially wealthy wife-takers who could pay higher bridewealth than others, and wife-takers seldom entered into competitive bidding. When wife-takers and wife-givers met for negotiations, the latter would have information about the size of the wife-taker's herd and would adjust their claim accordingly, trying to obtain as much as possible to the limit of the wife-takers' resources.

Attempts to get daughters married to wealthy men were rare. Once a suitor appeared who could at least pay within the general average range of bridewealth the wife-giver would not refuse him. The reason for this was not that competition for resources was a foreign concept to the Gusii. On the contrary competition between Gusii men was institutionalized through well developed sanctions for private property, and a political system that stimulated individual advancement. The reason has to be sought in certain structural principles in Gusii society and in the structure of the economy.

The structural principles which controlled bridewealth exchanges are to be found in the house-property complex (Gluckman 1950; Håkansson 1984; Mayer 1950). According to the rules underlying the constitution of the polygynous family every cow received for a daughter of a house had to be used by the sons of that house for marriages. These rules "locked" most of the cattle in Gusii Land into a circulatory system which did not give an opportunity for speculation in daughters and brideprices. I do not argue that the effects the forces of supply and demand on bridewealth were neutralized but that their play was limited. A son had no incentive to be liberal in the use of his cows because he probably had other brothers who also wanted to marry and for whom cows had to be saved. In addition, it was not the son who entered into the bargain for a wife but his father or another senior male. This also limited any attempt to compete with others for wives since the actual arranger of the marriage was not the one getting married. Finally, few individuals had many cows available that were not already locked into the bridewealth exchange system.

The absence of such free-floating cattle to use for marriage limited the overt competition for wives. It was not a sensible strategy for a father or brother to wait for a richer suitor to appear since rich men with large numbers of uncommited cows were rare. The only factor that would raise the level of bridewealth was then the slow growth of the overall cattle holdings in Gusii Land since that affected most of the men in a fairly equal fashion.

The particular form of social classification employed by the Gusii emhasized unambiguous affiliation of children to the bridewealth paying man. This is reflected in the character of Gusii bridewealth as primarily a transfer which gave a man rights *in genetricem*. The statuses of husband and wife were less clearly defined, and wives retained considerable economic independence from their husbands' authority.

Notes

[1] This clay vessel is called *egesingero* and also plays a role in male initiation ceremonies where it is used to pour water on a clump of grass during a fertlity ritual (P. Mayer 1953:18).

[2] Langley (1979:78) mentions that in Nandi marriage rituals a knotted stick entwined with creepers is used as a symbol of fertility.

[3] Elsewhere I have interpreted parts of the marriage ritual as a rebirth of the wife into her husband's lineage (Håkansson 1987b).

[4] The same term is used in the Kipsigis language (Peristiany 1939:97).

[5] The debt of a brother to the sister whose bridewealth he used is the basis of an important relationship in many African cultures. Kuper (1982) has described and analysed the variations in this relationship in South African societies.

[6] Old informants recollect the outlines of an exchange procedure between a brother and his married sister. Through a complicated series of transfers involving goats, honey and a bull, she could transfer a cow from a daughter's bridewealth to her brother. Mayer (1950:36f) also described this exchange, but since the practice was defunct, he could not put it into socio-cultural context.

PART II.

Bridewealth and the colonial transformation

Chapter 4

The Impact of Colonial Administration: Land and Law

Introduction

The profound social, economic and political changes experienced by the Gusii during the colonial period were the result of a dialectical process in which externally imposed conditions interacted with indigenous socio-cultural factors. Colonial administration affected the Gusii by introducing both limiting conditions and coercive measures against some activities and by creating new opportunities. Indeed, in the eyes of the Gusii the colonial administration brought with it many assets which could be exploited.

In this and the following chapter I shall describe these changes, concentrating on how they affected bridewealth and marriage. First, the conditions established by the colonial administration from 1907-1965 (two years after independence) will be introduced as will an outline of their effects on Gusii society and economy. Second, specific processes of social and economic change related to bridewealth are described, concentrating on land and the family, legal and administrative organization, and the market economy.

British administration of Gusii Land began in 1907 when British officials settled in the area where Kisii Town would subsequently grow. From 1909, Gusii, Kuria, Suba and the southern Luo together comprised the South Kavirondo District with headquarters in Kisii Town. The district's name was changed in 1949 to South Nyanza. The eight subdivisions of Gusii Land were converted into eight administrative locations, each ruled by a government appointed chief with headmen under him. Except for Kitutu subdivision, chiefs were an innovation and, as in many other parts of Kenya, initially regarded as ineffective by the administration. The chiefs were given powers to maintain order, arrest offenders and organize various public services such as keeping roads and tracks clear (Maxon 1972:69-73).

Kisii Town became a center for outside influence, and by 1912 had a population of 650, mostly consisting of Indians, Swahili, Nubians and Europeans. A large number of these were traders (Maxon 1972:79). Although the roads remained undeveloped, Kisii market became an outlet for agricultural and pastoral products, and by 1908, one year after the establishment of the market, 100 tons of finger millet were sold by the Gusii (SKAR 1908/09).

The first missions established were the Roman Catholic in 1911 and the Seventh Day Adventists' in 1913. The mission activity was, however, not very successful and in the beginning several stations were looted. The enmity towards the Christian establishments continued into the 1940s and 1950s and was later expressed by the demand for replacement of mission schools by government schools. The fact that the missions segregated pupils and converts from the overall population caused bad feelings (Maxon 1972:153). In general the period up to 1945 entailed little social and economic change for the Gusii in comparison to what was to come after World War II. Up to the end of the 1930s there was low population growth and land was abundant, allowing traditional cultivation to continue. No exclusive cash crops had been introduced on a large scale basis, and few persons travelled outside the district (I. Mayer 1965a:3).

Economic change

The direct economic impact of colonial integration initially concerned three areas: markets, agriculture and wage labor. The establishment of "Pax Britannica" *per se* stimulated local and regional trade by reducing the threat of theft, robbery and armed attacks on traders. Roads were slowly built connecting Lake Vicoria at Kisumu with the southern border at Tanganyika. The British encouraged and initiated the establishment of markets. By 1950 there were 40 markets and the emphasis on such cash crops, as coffee, pyrethrum and tea finally transformed the Gusii farmer from a subsistence grower to a cash crop producer. The production for exchange increased rapidly due to this stimulus and to the early introduction of agricultural extension services and maize seeds for improved yields. The demand for grain, especially sorghum, millet and maize for workers in the goldfields in Kakamega, the Kericho tea estates, and as famine relief, stimulated surplus food production in Gusii Land (Uchendo & Anthony 1975:34).

Maize and groundnuts were introduced during the first years of colonial administration as economic crops whereby the Gusii could earn cash to pay taxes (Maxon 1972:80). Maize rapidly caught on both as a food and as a cash crop, due to its high productivity in relation to labor input. The 1940s saw an enormous increase in the sale of agricultural products, foreshadowing the coming of the dominant cash crop economy. Coffee was introduced in 1934 (Maxon 1972:194), but until the 1950s, was grown in small quantities only.

Power mills and ploughs facilitated the expansion of cultivation and the processing of large quantities of grain. Production increased through expansion of cultivated land at the expense of fallow and grazing land. The good market for cash crops, and the population explosion stimulated settlement of the last unoccupied parts of the highlands, notably Kitutu and North Mugirango (Uchendo & Anthony 1975:21). Migration towards these areas was haphazard, consisting of segments from different clans, in contrast to the homogeneous settlement of the old core areas. Enclosure had been established in 80 percent of Nyaribari and Kitutu territory by 1959 (Maxon 1972:313).

After World War II, the administration improved agricultural extension services, and credit facilities, and farmers' produce cooperatives were introduced. In the 1950s, coffee, pyrethrum and tea became the main cash crops, and processing factories were established by the 1960s. By the middle of the 1960s, Gusii land had been integrated into the world economy through a well developed road system, commercial agriculture and infrastructural supports.

While the agricultural sector expanded and became more sophisticated, the traditional pastoral sector stagnated, although milk and hides were sold. Veterinary services remained restricted, and the role of cattle as a source of wealth diminished in relation to agriculture. There are no direct statistics on the Gusii cattle population before 1950, when it was estimated to be 379,800 head of local zebu cattle (SNG 1953).

Parallel to developments in agriculture, a wage labor market also emerged. The colonial administration expected the Gusii to supply labor for road work, building, porterage, servants, etc. Young men responded to this demand but only when it concerned work in Gusii Land. They refused to work in other parts of the colony. Therefore during the 1910s and early 1920s wage labor conscription was undertaken, and it was not until the 1930s that voluntary labor migration from the district became common (Maxon 1972:121f; Uchendu & Anthony 1975:45). Since then wage labor has increased among the Gusii but until the 1950s unskilled work demanding no school education predominated. Until the Second World War the demand for European education was low. After the war, partly because of the experiences of those Gusii who were recruited in the war effort, requests for, and the building of schools expanded. Due to this late-blooming appreciation of Western education, Gusii educational facilities lagged behind other areas in South Nyanza District.

The changing economic infrastructure and opportunities directly impinged on bridewealth and marriage, as is shown in chapter 5. To summarize: The continuously growing market for surplus production was exploited by men as a new resource for obtaining cattle wealth with which they in turn could expand their families. This had consequences for women's status and increased the exploitation of their labor. Simultaneously bridewealth increased dramatically, creating social problems. Family holdings also expanded, land tenure changed, and new forms of wealth were introduced.

Politico-legal changes

At the onset of colonial administration in 1907-08 the chiefs were given jurisdiction in civil matters and petty criminal cases and by 1911 were supposed to adjudicate disputes in conjunction with a council of elders in accordance with customary law. On the whole, the British respected customary law that governed what they considered to be "civil" cases, e.g., debts, land conflicts, family disputes, divorce, inheritance, etc. But murder, theft, and assault were criminal cases and treated according to British law. An appeal

court existed, consisting of elders and the District Commissioner (DC).

This new legal system was soon accepted and utilized by the Gusii to the extent that already in 1908/09, 25-30 applications for civil suits were filed with the DC every day. The native law councils were regarded as effective by the administration and their decisions were usually obeyed when they had the backing of public opinion (Maxon 1972:77).

In 1923 the administration revised the judicial system to the effect that civil cases were taken from the chiefs' jurisdiction to special courts called Native Tribunal Courts (or *Ritongo* in the Gusii language) which were presided over by local male elders who passed judgement according to customary law. An appeal tribunal was created in Kisii Town, and the court of last resort was the District Officer's (DO) Court where the DO heard cases together with male Gusii elders who acted as court assessors and advisors. Court decisions were backed by a special police force and sentences could vary from fines to prison terms. Another body with administrative and legal functions consisted of the Local Native Councils, which regularily formulated new ordinances. Some of these concerned bridewealth, e.g., rules for limiting the size of payments.

After the change in legal system brought by the colonial administration, the Gusii soon became known for their litigiousness. The traditional legal system was rapidly abandoned in favour of "the new fountains of justice" provided by the administration (P. Mayer & I. Mayer 1965:50). Within a few years the traditional institutions had become obsolete, and people regarded the administration, *serekali*, as the ultimate and only valid source of power and law, and made extensive use of its legal institutions (I. Mayer 1975:277; P.Mayer 1951:26; 1950:30; LeVine 1960:56). Indeed one historian remarked that it was in the judicial sphere, especially concerning civil cases, that the Gusii were to show their greatest acceptance of British rule (Maxon 1972:355).

The colonial administration caused the collapse of traditional political and legal organization and changed the parameters of economic and social interaction. The fragmented political organization, with its localized control and frequent conflicts, was at one stroke largely removed. It became possible to move everywhere within the district. Legal rules could be applied to everyone outside the individual's own patrilineal group. Political influence came to be attached to administrative positions such as chiefs, headmen, and court elders. Political position therefore became less dependent on the possession of many sons through which the big man had asserted himself in pre-colonial society. Although a big family continues to be a source of prestige even today, its functional importance has changed from being the basis for political control to being no more than a means for the production of wealth. This was a gradual change which became especially noticeable in the period after World War II.

The overall administrative and legal apparatus changed the power relationships between people and the basis of their social interactions. Claims could be made through the courts against any Gusii, irrespective of clan, something which was difficult before due to the constant conflicts. The need for mutual

trust in contractual and kin relations declined because the legal apparatus provided opportunities for escaping demands as well as for the enforcement of claims. Since the courts took over legal proceedings, local male elders' power declined. The administrative apparatus also provided men with means of controlling children and wives, but at the same time the homestead head's formerly absolute power over his dependants was reduced. Actions by family members became punishable by courts in cases of, e.g., theft, murder and adultery, and were removed from the head's ultimate judgement. The courts and the administration became sources of new rules that affected people's strategies.

Legal organization and disputes

In 1928, Gusii civil cases were double those emanating from the more populous Luo, and 4,606 civil cases were heard by Gusii tribunals (Maxon 1972:160). In the mid 1950s the tribunals heard about 1,000 cases per month. R. LeVine & B. LeVine (1966:73) calculated that in 1958 the Gusii spent US$50-60,000, or a third of their coffee earnings in court fees. Up to the 1940s most civil cases involved livestock, especially in relation to bridewealth (P. Mayer 1950a:3). From the late 1940s land cases and suits for child custody became the major source of litigation (Uchendu & Anthony 1975:2), and at the end of the 1950s there was a marked decline in litigation *in toto* (Maxon 1972:309).

The prominence of bridewealth cases in the tribunal courts emanated from claims for cattle in relation to the following situations: first, cattle debts resulting from the death of bridewealth cattle in which the wife-givers sued the wifetakers for replacement; second, the return of bridewealth cattle in the event of divorce or the death of a wife. The cases were often extremely complex and involved both misunderstandings between the parties, and to a great extent, fraud. Below I give the transcripts of a few typical court cases in order to illustrate the nature if their contents[1].

CASE 1. Civil case no 58, 1943 at the District Officer's Court of Appeal in Kisii.
Plaintiff: Getanda Murundia
Defendant: Boronyi Nyaore

Getanda states: I married Boronyi's daughter with four cows, four calves and one heifer in calf. She got one child but both mother and infant died. Boronyi was not the legal father of my wife but had inherited her mother. I am suing for the return of the brideprice.

Boronyi states: My brother died and I inherited his wife and had a daughter with her. This daughter went to Getanda's son. My brother's son, Ombaso, went to Getanda and got three heifers. One heifer died but Ombaso still has the other two. I never took anything as brideprice for my daughter from Getanda.

Witness states: Getanda's son went off with Boronyi's brother's daughter. I was on my way to the chief in order to ask him to help retrieve the daughter, when I met Getanda who promised to pay the brideprice when his daughter got married. About two months later my brother Ombaso came back from Mombasa and I left the matter

to him since the cattle to be received were his. Ombaso got the cattle and not Boronyi. Ombaso is the full brother of the girl and has the cattle now.

Assessors' judgement: Getanda cannot sue Boronyi but must sue Ombaso as he received the cattle. Getanda should have his claim of the cattle from Ombasi.

CASE 2. Civil case no 4, 1943, District Officer's appeal court.
Plaintiff: Samuel Anyango
Defendant: Karasi Tai

Karasi states: I married Samuel's sister with three cows and one bull (about 1926). Samuel wanted to marry a wife with the cattle but they were not enough so he asked me for more. I gave him another heifer secretly. Samuel married and his wife gave birth. He asked me to increase my bride price and I gave him a cow and calf, and a heifer. Then he brought this case, wanting still more cattle but I refused to pay. None of the cattle died or was refused by him. I have seven children but five have died. I have not yet completed the marriage.

Samuel states: I agreed to Karasi marrying my sister by installments making a total of 12 cows in 1938. He paid me six head of cattle (five cows and one heifer) and married the girl. I married with these six head of cattle but one cow was returned as too old and I in turn returned it to Karasi. Karasi promised to pay me the balance when his sister married but has not done so. I therefore sue Karasi for replacement of the cow and one heifer. My sister has had four children and one miscarriage.

Assessor states: The ceremony of marriage has not been completed by putting on the ankle rings (*ebetinge*) so Samuel can go on claiming for cattle. Samuel should get two heads of cattle, one cow and a heifer with calf.

Second assessor states: I would only give him a cow and a calf like the appeal elders even though Samuel can go on suing.

DO's judgement: I believe first assessor to have described Kisii custom correctly. Karasi to pay one cow and one heifer with calf.

CASE 3. Civil case no 50, 1943. The DO's court.
Plaintiff: Omari Onkoba
Defendant: Nyambane Ogutu

Omari states: Nyambane married my sister for four cows, three heifers with calves and eight goats. When the marriage fell through I returned all the stock. After staying with another man my sister returned again to Nyambane. Nyambane showed me five head of cattle but as some of these were sick I only took three cows, leaving two heifers. Two of the cows died and I returned the hides. At that time Nyambane told me that the heifers had died. I was waiting to be paid the balance of my cattle when my sister died, leaving five children. I then asked Nyambane again for the cattle and he refused to give them to me wherefore I brought this case.

Nyambane states: When Omari's sister came back the second time I gave him four cows with which he married. None of these cows died. I married in 1923.

Witness Onkoba Kibagendi states: When my daughter went back to Nyambane he agreed to give me five head of cattle. I took three cows; two of which died. I returned the hides to Nyambane who then told me that the other two heifers which I had left with him also died, so we now have only one cow and a calf.

Nyabaro states: My brother (Nyambane) married the daughter of Onkoba. I myself took two cows and two heifers to Onkoba. This was on the second occasion. Omari married with these four head of cattle. I don't know whether any died.

Assessors: The woman has now died so Omari can't sue Nyambane for more stock.

DO's judgement: The assessors seem quite certain that the death of the woman prevents a claim and as they agree with the appeal tribunal I dismiss the claim.

CASE 4. Civil case 375/49, 1949, Kuja Tribunal court.
Plaintiff: Origi Nyanchingurira
Defendant: Okenyo Nyakundi

Origi states: I married the defendant's daughter. I gave him 18 head of cattle, i.e., seven cows, eight heifers, three bulls and 18 goats. None of these head of cattle has died nor been returned to me except two goats he slaughtered for me. When the marriage was dissolved I took the matter to the *etureti* elders who ordered that I be paid my 18 head of cattle and 14 goats. He gave me 10 head of cattle, i.e., six cows, three heifers and one bull and three calves in the presence of the *etureti* elders. Now I claim from him eight head of cattle, two cows, five heifers (of which four should be pregnant) 1 bull and six goats because I was paid 10 goats as witnessed by *etureti* elders. I also claim shs 90:- of which I gave the bride 20:-.

Okenyo states: Truly Origi gave me 18 head of cattle, i.e., seven cows, eight heifers, three bulls and 18 goats. I slaughtered two of the goats for him. After the marriage was dissolved the matter was taken to the *etureti* elders. I was ordered to pay 18 head of cattle and 13 goats. I paid him 14 head of cattle and 11 goats before the *etureti* elders. I can't give the size and sex of the cattle because I was not present when the payment took place. It is my son who paid the cows on my behalf.

Questions to Okenyo by Court: Q. Among the 14 cattle you paid the plaintiff how many cows had calves that were suckling? A. There were three calves suckling which brought the total to 14 head of cattle.

Witness: Origi is my brother-in-law. He married my sister for seven cows, eight heifers, three bulls, and 17 goats. I slaughtered two goats for him. When the marriage broke up the matter was taken to the *etureti* elders. I was ordered to pay 18 head of cattle and 14 goats. I paid him 14 head of cattle, i.e., six cows, four heifers, one bull, three calves which were suckling, 10 big and one small goats.

Judgement: Okenyo to pay one cow, four heifers (two pregnant), two bulls and six goats plus costs of shs 43:-. The elders of *ritongo* Kuja have left out three calves because these were suckling. This brings a total of seven head of cattle that have not been paid. The defendant has paid 10 goats already and the court does not count the small goat wherefore the defendant should pay six more goats. The shs 90 given to the bride and her father was a gift and not part of the bridewealth. Therefore it cannot be repaid. Order Okenyo to pay one cow, four heifers, two bulls and six goats plus court costs.

The common feature of these cases is that the parties do not agree about the number of cattle to be refunded. In the first case the plaintiff claims that he did not receive a refund of cattle when his wife died. The wife-givers escape the issue by claiming that the plaintiff is suing the wrong person. Instead of suing his brother-in-law, he is suing the wife's father's brother. Since his father-in-law is dead his mother-in-law has entered into a leviratic union with her husband's brother, who is the formal representative of her house until the eldest son has married. In this case, the eldest son received the cattle from the plaintiff, and has the right to use the cattle. Thus it is technically correct that the plaintiff should sue his wife's brother and not the dead father-in-law's brother. However, by referring to this technicality the wife-givers are trying to evade the refund.

In Case 2, the defendant had an agreement with his brother-in-law to pay the bridewealth in installments but tries to avoid paying in full. Case 3 presents a man whose wife has died and who reclaims his bridewealth of four cows, which he claims the wife's brother used for his own marriage. The

wife-givers, however, claim that they only received three cows, of which two died. Finally in Case 4 after a divorce, the wife-taker demands the refund of all his bridewealth, and the wife-givers confess that they have not returned all of it. They apparently postponed the restitution until the wife-taker took them to court.

These are only a few of thousands of similar cases filed each year during the 1940s. Obviously the parties to such disputes are trying to avoid proper repayment and probably also lie about the number of cattle to be restituted. The interpretation of this behavior must be seen in the light of the structural relationship between wife-takers and wife-givers. They see each other as enemies and representatives of different clans and therefore as rivals for resources. It is possible to avoid repayment because they have no other complementary relationship with each other outside the bridewealth contract. Hence, reneging on a debt has no consequences other than a possible court case, the outcome of which may or may not favor the plaintiff or defendant.

In pre-colonial days, if claims for refund were not honored the cases were taken to the local big man who would approach the big man in the debtor's lineage or clan and see that a settlement was negotiated. The colonial administration made the indigenous politico-legal organization defunct and the threat of armed retaliation by a debtor was removed. The opposition between wife-givers and wife-takers as members of different and competing segments could therefore take the form of litigation in the tribunal courts where the successful litigant made a gain in livestock at the expense of another clan.

Land tenure and marriage

The initial opening of southern Gusii Land to safe settlement led to a spread of population and mixing of clan segments as new areas were claimed. Initially, it appears, the reduced danger from neighboring Maasai, as well as from other Gusii clans, appears to have lessened the need for contiguous settlements. The 1920s and 1930s saw a decrease in population density, which was soon reversed in the 1940s and 1950s.

In 1938, a district commissioner remarked: "The Kisii have now occupied all the country up to their boundaries. Density of population on the land is less. The bush appears today distinctly thicker than it did 18 years ago. In 1921 the Kisii did not nearly occupy the whole of their country" (SKAR 1938).

About 10 years later, P. Mayer & I. Mayer (1965:61) stated that virtually no empty bush existed and homesteads were built wherever possible. This is an exaggeration, which possibly applies to the more densely populated central areas of the highland zone, while the southern lowlands of Bassi and Majoge still received settlers on unclaimed bushland. Therefore, since land for subsistence was not scarce, there is a need to consider the expanding market for cash crops, which greatly enhanced the need for land and clearly defined tenure.

The combined effects of a growing market for cash crops and incipient land scarcity contributed to produce a change from use rights in land to family tenure and permanent rights to specific plots. Land claims by individual households appeared in the 1940s and new tenure rules evolved.

During the 1940s, the population increase and cultivation of cash crops contributed to the evolution of a new form of land tenure. Changes in land law took place without the direct intervention of the colonial authorities. Since there was no precedent for the permanent exclusive use of land in customary law, the emergence of such rules was preceded by a large number of land cases at elders' councils and African Tribunal Courts.

The process of establishing permanent tenure took place when individual, extended polygynous families submitted claims to specific continuous areas of land around their homesteads. The common field system disappeared, and each family cultivated its claimed land. Land had not previously been an issue of inheritance and competition, but it now became a restricted resource, which was included in inheritance and detailed tenure rules (P. Mayer & I. Mayer 1965). Exclusive control over land on the family level through the family head also made land more closely controlled and associated with males. Individual men were now seen as "owners" of specific plots rather than as co-tenants with their wives on lineage land. In contrast, during the earlier tenure situation wives had access to land as members of their husbands' clans and lineages.

The new permanent rights to specific parcels were derived from the house property rules regulating rights in cattle, and land was equated with cattle as *etugo* (see chapter 3). Land became permanently tied to specific families and houses as a scarce resource necessary for their growth and nourishment. Rules for its allocation and inheritance follow the rules for cattle allocation. As long as the father lived land was held as a unit under his authority, and he allocated plots for his wives and their sons to cultivate. Each set of full brothers then became the heirs of the land that their mother cultivated. At the father's death, boundaries between the houses would solidify, but the land was not finally divided among the sons of one house until their mother died (this is quite different from the situation today in which land is assigned to each son as soon as he marries). Land was thus patrilineally transmitted to her sons, and if there were no sons, then to a co-wife's sons. If a couple had no sons, then the patrimony went to the husband's brother's sons or to the husband's father's brother's sons, etc.

Another effect of applying the rules for cattle division to land was that when land became scarce in the 1960s it was divided equally among the wives irrespective of the number of their sons. Such equal division is based on the principle of viewing each house as a unit of growth and economic management. Although equal division of cattle between houses can be adjusted according to the number of sons by natural increase, this is obviously not the case with land.

Land claims were established by cultivation and by building a house near a field. This method of claim held as long as it remained uncontested. All land

near the house became the property of the houseowners. No exact boundaries existed but when someone else built a house nearby and started to cultivate, the two neighbors would either peacefully agree on a boundary or take the dispute to male elders or to court. (P. Mayer & I. Mayer 1965:62-63). Old common fields, which used to be cultivated by different homesteads, were now claimed by those homesteads situated closest to these fields. Hence, the neighbors of the claiming homesteads had to relinquish their rights to cultivate the claimed fields and in turn, had to claim exclusive rights to the fields closest to their own homesteads.

Others expanded into regions which were not previously cultivated, and sent their wives and married sons to pasture areas where they built houses and occupied either uncultivated land or claimed parts of the former common pasture land. The value of polygyny and married sons was reinforced by the need to send these out as agents to settle on the land.

The land law evolved spontaneously from indigenous processes and concepts. Local conflicts and adjudication forced groups to settle boundaries. When two homesteads were in dispute over land, elders would be called to adjudicate and prevail upon the parties to agree to a division. Natural boundaries such as streams, trees or stones and planted hedges were used. If the elders' adjudication did not succeed the case was taken to tribunal courts and to the land court in Kisumu (the provincial capital). (P. Mayer & I. Mayer 1965).

Up to the 1940s, the Gusii regarded the acquisition and retention of land as a trial of strength between groups, but the groups were small and the channels were legal. The interplay of local factions and influences was also a factor. Since land law was still poorly defined,the need for self help through segmentary solidarity was invoked. The most effective weapon continued to be support in the neighborhood (*ibid.*:67f).

> Nowadays, when commonplace boundary disputes arise between neighbouring homesteads, the fees for lodging a case at a Native Tribunal have been raised by a collection within a whole lineage group. Thus, in a case where the disputants were of different amaiga, the plaintiff's riiga raised the fees...it was not so much a dispute between the litigants so much as a dispute between amaiga. Land cases which appear to be concerned with individual holdings may in this way bring into play the latent solidarity of riiga or clan house, sub-clan or clan, according to the context (P. Mayer 1949:23).

A process of inversion commenced: The land scramble continued to evoke segmentary principles, but as the population grew more and more land was claimed and delimited. Clan boundaries became fixed. The last instances of clan disputes over land occurred in the early 1960s. Disputes were more and more concerned with lower level segments, commonly involving first cousins and half-brothers. The segments froze in space and ceased to be repositories of corporate rights in land, but potential inheritance to each others' plots remained within the lineage. By the 1960s land was registered in male individuals' names and all boundaries were fixed.

The segmentary model as a means for articulating socio-political relations in space, as well as its ability to generate cooperation and conflicts, had become obsolete. In addition the lineage and neighborhood as a means for labor cooperation ceased as production of cash crops increased.

As land was claimed by homesteads and access to land became a matter of legitimacy, settlement was restricted to the territory controlled by the individual's own *riiga*. Throughout the colonial period, dwellers on foreign clan land were constantly expelled from their host clans' land. The process of claiming land for each family within a clan resulted in the expulsion of families that belonged to foreign clans, i.e., dwellers (*abamenyi*) who had settled on foreign clan territory by invoking some non-agnatic kinship tie. In the pre-colonial and colonial periods families and lineage segments were accepted as temporary dwellers in foreign clan areas. Such possibilities were gained through matrilateral and affinal links in the host clan. Pressure on land, however, resulted in the identification and expulsion of foreign clan elements rather than their assimilation, as was usual before the land scramble.

Such dwellers were forced to return to their original clan areas where they were given land. The criterion of membership of a clan for access to land was stressed to a greater degree than before. This was later extended, during the 1950s, to apply to the clan segment, making it impossible for an individual man to settle anywhere in the clan except where his *riiga* held land. Inheritance in turn was dependent on legitimate descent, i.e., that a man's father had paid bridewealth for his mother. In these circumstances, bridewealth began to acquire a new role in the establishment of female rights to land use. While this did not yet affect women, it was to assume crucial importance in the following decades.

Conclusion

Through the establishment of the colonial administration, new institutional frameworks influenced social and economic action. The legal and administrative apparatus affected social interaction by changing the form of the bridewealth institution. This altered pattern influenced the evolution of new legal norms in some instances, while in other instances the same legal norms persisted throughout the colonial period despite a transformation in behavior patterns.

1. Changing norms

The interaction between population growth and increase in market oriented crop production made land a crucial factor for the production of wealth. New ways of obtaining wealth and scarcity of land created competition in which families tried to control as much acreage as possible to the exclusion of other families. Thus the altered pattern of agricultural production contributed to a change in tenure rules. These new rules developed from an extension of the conceptual framework of previous rules for the allocation of rights in cattle wealth.

However, the emergent new land tenure, although indigenously conceived, was shaped by the existence of an overall legal apparatus through which individual claims could be validated. It is possible that without the presence of a colonial administration a similar situation would have produced a different form of tenure. For example, land might have become concentrated in the hands of a central indigenous government, e.g., around a chief or a king.

Through the inclusion of land into family property and hereditary wealth, cattle had yielded to land as an important form of wealth. The inclusion of these new resources into the house property rules would have profound consequences for the future role of bridewealth. A shift of its role from a legal transaction affecting rights in people to controlling access to land had occurred. This in turn was to have an impact on the relationship between men and women by strengthening the former's rights.

2. Changing pattern of affinal interaction

The relationship between wife-givers and wife-takers with respect to honoring the obligations of the bridewealth contract altered while the norms regulating it remained intact. Previously the interaction between a husband and his wives' families was based on mutual trust. The wife-givers had to rely on the wife-takers' will to replace dead bridewealth cattle, hence they had an incentive to replace a dead wife or pay compensation if the wife ceased to bear children. On the other hand, the wife-takers had reason to replace dead bridewealth cattle for the same reason. The court institution, however, separated these two obligations from each other. To claim replacement of dead cattle through the court enabled the plaintiff to obtain his right without honoring his obligations (according to customary law women could not claim cattle in their own right). By referring a case to a court it was possible to avoid as well as to win a claim. Thus the wife-giver could refuse to refund bridewealth in the case of the wife's death while at the same time filing a claim for dead bridewealth cattle which he could win.

This interpretation is supported by the character of the bridewealth disputes in the court records. As I have exemplified above, claims in court often imply outright fraud by one of the parties. The court system and the administration removed the only incentives for cooperation between affines and laid bare the competition inherent between distant lineage segments. Not only did it become possible to recover claims without honoring obligations, the value of the affinal relationship also declined, removing an incentive for staying on good terms. In pre-colonial times, affinal connections were useful as security when passing through the territory of other clans. With the colonial peace this aspect of affinal connections disappeared. In addition the sanction of physical violence, which was possible in pre-colonial society through self redress, was largely removed.

The number of court cases filed increased throughout most of the colonial period. This development may be related to the increasing population, but also to the expanding economy and rising brideprices. This put pressure on

men to obtain more and more cattle and litigation was one possible means of doing so. Affines were competitors for wealth in the form of cattle and to take from them was not associated with any social or moral objections.

3. Expansion and the segmentary model

The territorial expansion of the Gusii during the colonial period reinforced the segmentary model. During this period of land scramble, the segmentary principles regulating access to land came to the fore and many families and lineage segments resident in alien clan territories were expelled by their host clans. This process has also been documented by Shipton (1980) in other East African societies. The value of polygyny and many sons as a means for controlling wealth was reaffirmed.

Notes

[1] I have examined 110, and copied 63, civil cases from the Kuja Native Tribunal Court in Ogembo and the Appeal Court in Kisii Town. These range from 1938 to 1967.

Chapter 5

Bridewealth, Market and the Exploitation of Women

Introduction

The market economy made women's labor very important to men as a source of wealth, and bridewealth assumed increased importance as a means to secure it. The channelling of wealth derived from cash-crop production into bridewealth led to its increase throughout the colonial period. The increase in bridewealth and the emergence of new goals for investment in turn led to a greater exploitation of women by men, which was facilitated by the latters' control of the legal apparatus.

The British administration effectively ended most interclan and intertribal fighting and large-scale cattle raiding. A judicial and administrative system which included all Gusii under a common organization for administration of law and its enforcement, was established. Markets for agricultural and livestock products were opened. Although the roads remained undeveloped Kisii Town became an outlet for the Gusii for agricultural and pastoral products. The growth of market places together with the colonial peace effectively increased the scope for trading through both markets and traditional barter.

Two effects of this development had a crucial impact on the economic aspects of the bridewealth system. Raiding as a means to obtain cattle was greatly reduced, and the Gusii economy was connected to a market economy in which surplus products and labor could be sold.

The idea of selling agricultural products (mainly *wimbi*) on the market for money rapidly caught on. The Annual Report from 1908/09 states: "The Kisii are excellent cultivators and always have any quantity of grain to dispose of at the price of something like 200 lbs/1 rupee". And in 1911: "The Kisii are very keen traders and know the value of money and are always on the look out for a profitable deal". (SKQR 31/12, 1911). Men used their money from wage labor and the sale of grain to buy cattle (chiefly from the Luo and from traders coming up from Tanganyika). Most of the money earned was, according to SKAR 1912/13, "hoarded up to buy livestock". This cattle was in turn used for obtaining wives.

With the effective control on cattle raiding, a major source of cattle for bridewealth was almost completely closed. Instead the market economy offered alternatives to young men who had no access to a sister's bridewealth.

They could cultivate grain and barter it for goats, which in turn were allowed to reproduce and these were exchanged for cattle. One informant, ca. 70 years old remembers, that he:

> Planted potatoes, maize, *wimbi* and beans, sold it and got money with which I bought goats. As the goats multiplied they were bartered against cows or small heifers. It was common that people had to earn their own bridewealth because cows would often die. Some Gusii started growing the new crops in 1928. Barter continued to exist among the Gusii. *Wimbi* was exchanged for cattle. Some Gusii started to grow crops for selling in 1914 while I started in 1928.

It was also possible to obtain money by working for wages inside or outside the district. In the first years of the administration, young men were reluctant to take jobs but they soon discovered the usefulness of money and went willingly to work inside the district. During the first years of the administration wages had to be paid in cattle in order to entice men to work on road building.

The main consequence of this change in the means of obtaining cattle was that agricultural production became crucial for the acqusition of cattle and wives. A circle of exchange was created: grain – money – cows – wives – labor – grain – money – cows, etc., or: wages – cows – wife – labor – grain – money – cows, etc. Free-floating capital was thus created, making it possible for men to obtain large numbers of cattle outside the circulation between houses. These free cattle provided the means for men to compete for wives to a much greater extent than before, thereby creating a marriage market with rapidly increasing or declining "prices", and the transfer of rights in women to those paying the highest bridewealth. One "progressive farmer", aged ca. 65, observed that in his youth:

> People were selling maize and wimbi. The money they obtained were used to obtain cows or goats. There were no problems in those days with paying school fees. The army used to buy grain from local people. When they got money from selling, bridewealth started to rise. Things were less expensive then, a heifer cost 10-15 shillings and a cow 30 shillings. The tax was two shillings, and people had to sell grain and cattle in order to pay. During this time people were employed in the army and earned 36 shillings per month. Many people were not used to money, and when the soldiers came back they had the money to buy cattle with so brideprices increased. It became difficult to marry.

Under these altered economic conditions, parents could pursue a strategy of offering their daughters to the highest bidder, and those forming large polygynous families would enter into open competition and overbid each other. The money economy did not change the men's goals for investment, which continued to be cows and wives, the two measures of wealth and prestige. But it opened the way to continuous expansion of agricultural production and competition between men. Through wage labor young men were also able to obtain the wherewithal for their own bridewealth, causing a decline in paternal authority and the emergence of inter-generational conflicts. While the men competed for wealth, it was the women who bore the burden of decreased independence and increased labor.

Bridewealth and market expansion

1. The source material

The increasing exchange of grain and money for cattle led to the payment of a steadily growing number of livestock in bridewealth, which was to continue into the 1960s. The greater demand for cattle and wives led to increased prices of the former and higher bridewealth payments.

I illustrate this relationship by comparing variations in bridewealth with fluctuations in monetary earnings from crop sales. The data used consist of economic statistics from the District Annual Reports, which refer to exports from the district of a variety of agricultural produce. The data derive from accounts kept at Kisii market, and the Kisumu and Homa Bay ports. Of course such statistics are unreliable and exclude grain bartered and sold outside the official markets. Since there are no better data extant these will be used here as an indicator of the changing monetary flow to Gusii farmers. While South Nyanza District included the Gusii, Kuria and parts of the Luo peoples, most of the export crops came from the Gusii. In addition, when calculating the yearly values of grain exports, I have excluded crops which were not grown to any great extent in Gusii Land such as *sim sim* and sorghum. A further limitation in using the information on crop sales is that wage income is ignored. This cannot be remedied since no reliable information exists for its calculation. However, the figures are not used as absolute numbers but as magnitudes which are related to the fluctuation in bridewealth. As such they reflect the relative variation in monetary agricultural income reaching the district.

Although some data on agricultural income for the period between 1929 and 1941 are available I shall not attempt to analyze the relationship of bridewealth to agricultural sales during this time, because the information is limited to only a few years and only a portion of the surplus grain entered the official markets. A large amount of surplus grain was exchanged directly for cows with the Luo (SKAR 1918/19; 1928), who used the grain for food, or sent it to the township of Kisumu for the making of native beer (SKAR1926) or to Moshi in Tanganyika (SKAR 1937). There is, therefore, a risk involved in using these figures as indicators of surplus production for sale and barter. It is not until the begining of the 1940s that surplus grain production and sales start to expand markedly and the relationship of agricultural income to bridewealth becomes explicit.

The bridewealth statistics derive from the bridewealth records of the Nyabururu Catholic Mission up to 1949, and after that from my own interviews. Two problems affecting the material appear. First, while the years of payment in the mission record are reliable, my own material depends on the memory of informants and may, therefore, not always be attributed to the correct year. The amount of livestock paid is reliable since most informants remember their bridewealth payments in detail. Second, the number of observations behind the averages given in the diagram differ. Before 1950 most years have

20–30 observations while from 1949 their numbers vary between 5-10 for each year, making the average less significant since the standard deviation may be high (see Appendix 1).

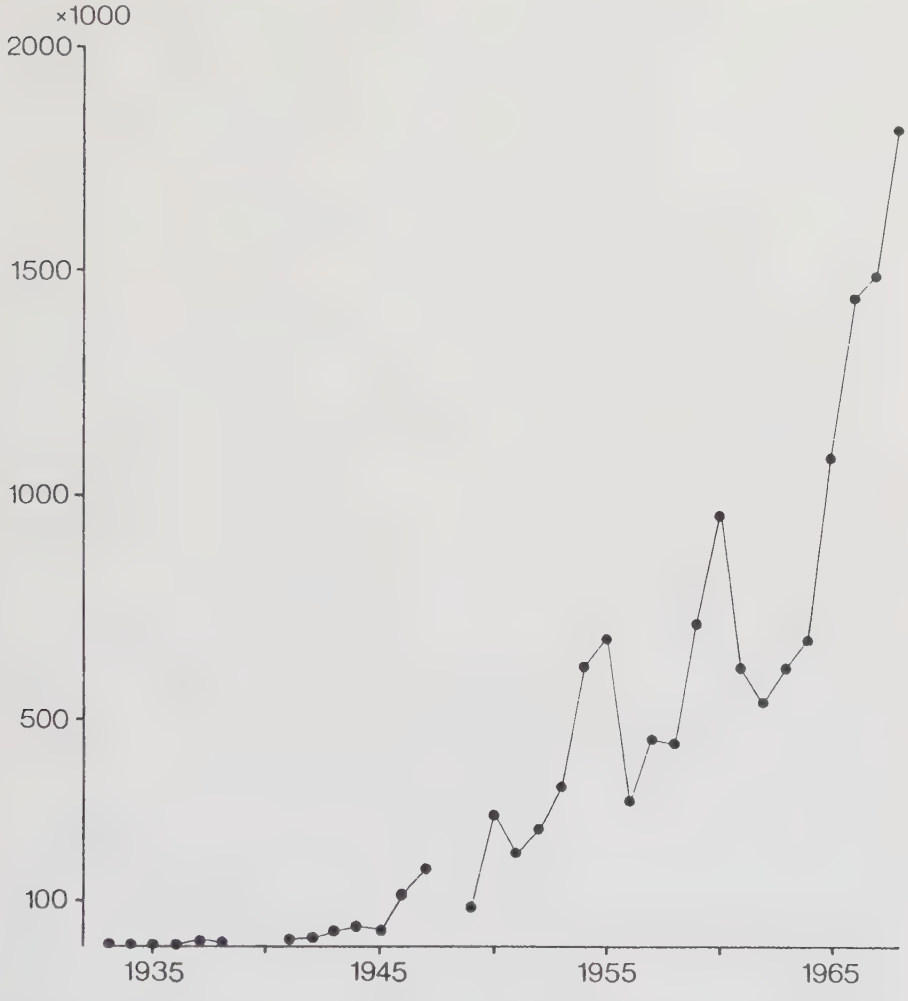


Fig. 5. Diagram showing yearly export values of crops from Gusii Land in 1000s of pounds (£).
Sources: District Annual Reports.

2. Market expansion 1920 – 1965

The annual reports from South Kavirondo (later South Nyanza) District show increasing amounts of grain, mainly finger millet (Swahili: *wimbi*), being sold on the market in Kisii up to the beginning of World War I, when there was a break in trade. By 1920 market sales were resumed, and at the end of the decade maize surpassed *wimbi* as the cash earner. Maize, a far less labor-intensive crop than finger millet, spread rapidly in Gusii Land and gradually superseded the latter both as a food and a cash crop. By 1925, 280,900 lbs of maize and 358,900 lbs of finger millet were sold through official channels

(SKAR 1925), for a total value of 31,229 shs. It was not until 1930 that the world recession afflicted Gusii Land. Employment opportunities which had earlier contributed: "a not inconsiderable portion of their wealth from the large number of young men who find employment in other districts, now disappeared. Prices were depressed and virtually stopped all exports" (Maxon 1972:170). It was not until 1934 that exports again increased.

Due to the onset of the Second World War, the administration encouraged production of food crops for export, and because of initially good prices for maize and millet, the agricultural production increased tremendously. The production of maize increased five times between 1938 and 1942, from 1,260 tons to 6,219 tons. Finger millet increased from 770 tons to 1,643 tons. The total monetary income from these crops in Gusii Land increased from £ 10,830 to £ 85,000 in the same period (Fig. 5).

The production peak in 1942 was followed by an increase in bridewealth from eight to 10 cows, reaching 12 cows in 1946, which was sustained until 1948, reflecting the continuing high production and income (see figures 5 & 7). The reduction in production in 1948 was followed by a drop in bridewealth to 10 cows in 1949. Although no monetary values exist for production in 1948, tonnage dropped from 15,044 tons maize and 3,419 tons millet in 1947, to 6,300 tons maize and 1,007 tons millet in 1948. By 1950 a bridewealth of 14 cows was reached, following the value of export sales that year.

By 1949, problems with the continuously inflated bridewealth prompted the Local Native Council to pass an ordinance fixing the legal level of bridewealth at six cows, 10 goats and one bull (SN LNC Min70/49). It is, however, testified to by several ethnographers that this ordinance was rarely obeyed (R. LeVine & R. LeVine 1966:46-47). I have therefore used my own data from interviews to cover the period from 1950 to 1964.

The increase in income in 1950 was followed by a drop to 11 cows 1951, which corresponded to a drop in earnings the same year. The increase in earnings in 1953 was followed by an increase in bridewealth in 1954. The rise in bridewealth in 1955 was to 16 cows. The increase was preceded by a steep rise in agricultural income in 1954 from £ 263,191 in 1952 to £ 623,814 in 1954. Then in 1956, the average bridewealth rate declined to 11 cows. From 1957 to 1960, there was an increase in bridewealth, corresponding to the new boom in export earnings.

The rate of increase in total export earnings in Gusii Land is higher than the increase in bridewealth value which seems to indicate that bridewealth was becoming cheaper in relation to incomes. Such a development was contradicted by the rapid increase in population which made the proportional rise in agricultural income per adult male less than the increase in total earnings in Gusii Land. In figure 6 the fluctuations in income per adult male and bridewealth value in shillings, are shown. These figures do not take into account earnings from wage labor. The figures show an average yearly percentage increase of 26 in incomes per adult male and 13 in the monetary value of bridewealth in the period between 1941 and 1955. Although these figures indicate a relative decline in bridewealth value in relation to income, a

number of other costs which also increased during this period and which affected household expenditure must also be taken into account. These are discussed below.

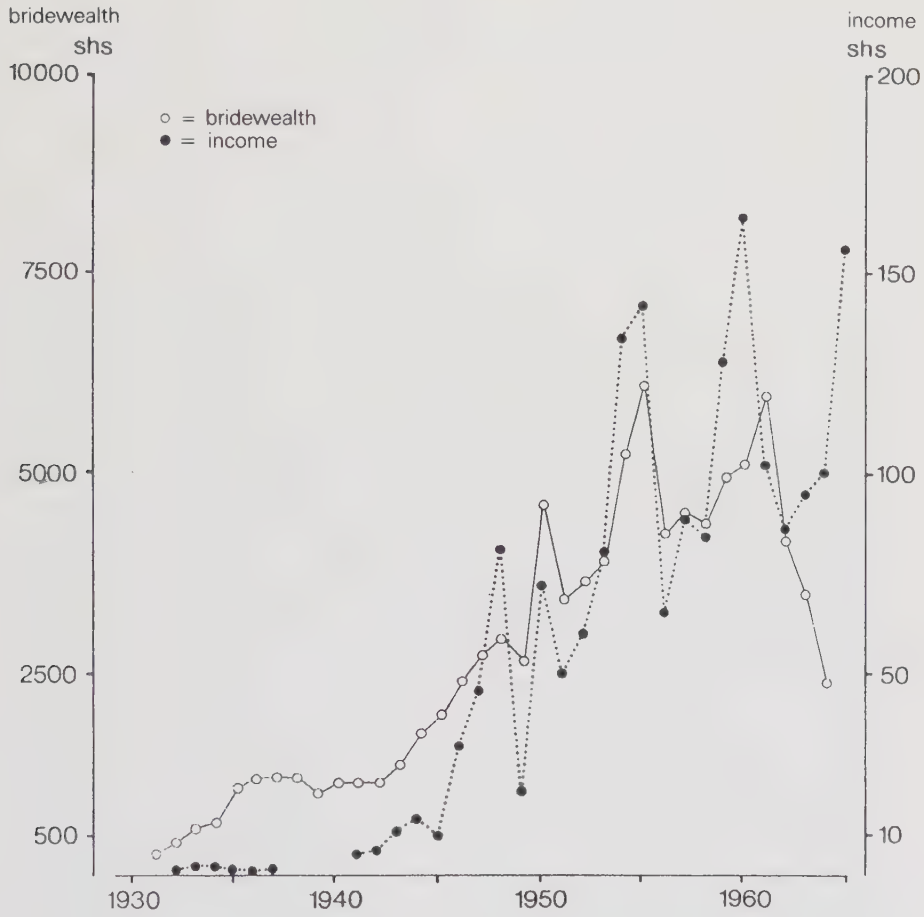


Fig. 6. Agricultural income per adult male over 18 years, and monetary value of bridewealth. The monetary values of bridewealth payments are calculated from cattle prices shown in Table 1. Price estimates for years in which data are lacking have been arrived at by interpolation. The price difference between any two years for which I have information have been divided by the number of intervening years. The income has been calculated on population estimates and cencuses from the colonial and post-colonial periods. These are in many cases unreliable wherefore it is advisable to view the data presented here as relative magnitudes rather than absolute values. Sources: South Nyanza and South Kavirondo Annual Reports; Kenya Population Censuses 1948 and 1962; Bridewealth diearies, Nyabururu Roman Catholic Church; My own field notes.

Table 1. Cow prices in Gusii Land
Sources: Court records; informants.

Year	Price (shs)
1931	32
1937	150
1943	140
1955	400
1964	300

Due to the nature of the source material, the magnitudes and directions of the yearly fluctuations in bridewealth, as shown in the statistics, are not exact. However, the trend is clear and reflects a steady increase in bridewealth parallel to the increase in monetary income from crop sales. It is possible to hypothesize several explanations for this increase in bridewealth. One reason could be that cow prices declined during the period under review, and hence men could buy more cattle without actually spending more cash. This explanation is contradicted by the fact that bridewealth payments expressed in monetary terms also increased, as shown in Figure 6. Although livestock prices fluctuated (see Table 1), the total value of brideprices more than compensates for occasionally declining prices of cattle.

Table 2. Gusii cattle holidings

Year	Number of cattle	Cattle/capita	Source
1930	≥55 177	0.44	Kenya Land Commission, vol III 1934:2357)
1950	379 800	1.18	South Nyanza Gazetteer (1953:3)
1966	238 700	0.40	Uchendu & Anthony (1966: 32)

A second hypothesis is that the cattle population grew by natural means, leading to a general increase as was usually the case in the pre-colonial economy. Due to the scarcity of reliable statistics on the cattle population in Gusii Land it is very difficult to consider this relationship. In Table 2, I have arranged the only figures available for the relevant period. Judging from these data there was an increase in cattle numbers from the beginning of the 1930s to the 1950s, and a subsequent decline towards the 1960s. It is not the

sum of cattle that is relevant, but rather the relative number of animals per household. Since reliable household statistics are not available, I have used head of cattle per capita instead. The figure for 1930 is about 0.44 head of cattle per capita[1]. This is probably too low since a real census was not undertaken. The estimated numbers for this year derive from a subjective assessment by a government officer of number of beasts per household. This figure was then multiplied by an unreliable statistical estimate of the number of households in Gusii Land.

The 1950 census shows an increase in per capita cattle holdings to about 1.2, followed by a decline to about 0.4 in 1966. One may therefore hypothesize that the increased number of cattle was responsible for the increase in bridewealth. However, during World War II a large number of cattle actually left Gusii Land as a result of forced sales (Maxon 1972:245), while bridewealth inceased in value. Furthermore, the decline, which must be assumed to have occured between 1950 and 1966, is not matched by a decline in brideprices until 1964.

A final possible explanation to consider is that there was a decline in the number of women in the human population. This was not the case judging from the census material.

Thus, it is likely that the increase in bridewealth was a result of increased agricultural (and other) income. Although marriage payments increased in value, making wives more expensive, the cost was offset by a rise in agricultural income and productivity on the farms. The production was boosted mainly through an extension of cultivated acreage, which in turn affected the demand for labor. Prices of food crops increased during the 1940s and early 1950s, which must have affected the value of female labor, and compensated for the costs of marriage. Finally, the expansion of high value cash crops in Kisii District in the late 1950s resulted in a tremendous improvement in agricultural income, which may be responsible for the sustained increase in bridewealth during that period.

In 1964, agricultural income in the district rises steeply (see Figures 5 & 6), but there is a decline in bridewealth levels. At this juncture a number of factors emerged in the social and economic conditions of Gusii Land, which foreshadowed the modern bridewealth system and prevented any direct relationship between income and rates.

But other factors in the 1950s also affected the expenditure on bridewealth. During this decade, the Gusii demanded schools, realizing the value of education for obtaining well paid employment. Hence, school fees became a regular expenditure. Consumption of imported goods such as clothing, woollen blankets, kerosene lamps, bicycles, and furniture, became common (even motorcycles and cars were purchased). In addition, court fees for litigation constituted a huge expense. Such expenditures competed with money for bridewealth. Furthermore, the Gusii entered business and trade. Shops were erected, tailors established, etc. (R. LeVine 1962:529-531). These were seen as avenues to wealth and prestige, as well as to wives and hence attracted capital away from the marriage market.

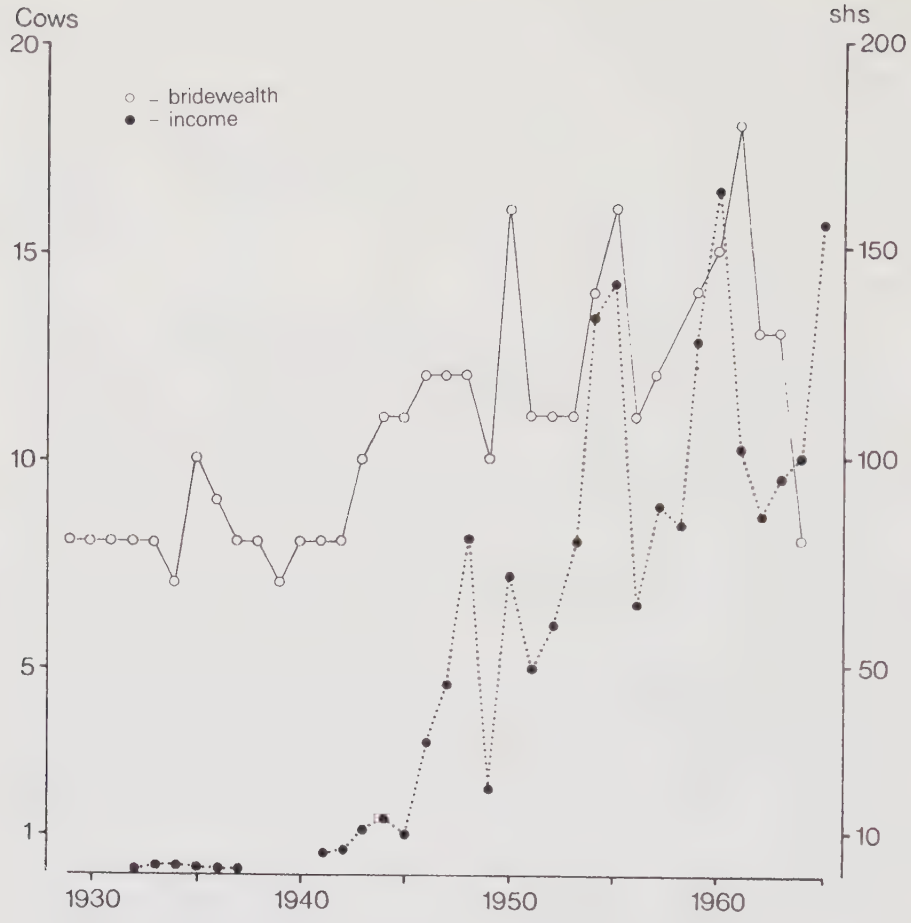


Fig. 7. Diagram showing bridewealth in terms of cows, and agricultural income per adult male. Goats, bulls and heifers have been calculated in terms of cows according to their exchange rates. Sources: see Fig. 6.

Finally, during the 1950s there was a growing shortage of land, which reduced wives' marginal productivity in agriculture. The acquisition of additional wives could not be accompanied by increased landholding. The whole system of agricultural production became more complicated with the introduction of cash crops such as coffee, tea and pyrethrum which rapidly expanded during the early 1960s. Investment in agriculture was not effected simply by adding labor, but also by buying coffee trees, insecticides, and fertilizer. The matter of declining marginal productivity and women's labor will however be treated in another chapter.

1. Changing division of labor

Increase in agricultural production was made possible by increasing the acreage under cultivation and by larger labor inputs. The labor input was to fall increasingly on the women's shoulders during the period under consideration. This development took two forms: a) there was a withdrawal by men from agricultural labor, placing more responsibility on the women to feed themselves, their husbands and their children; and b) women were increasingly required to work in the production of their husbands' cash crops.

Hence women became more and more important as producers of subsistence crops, farm managers and producers of wealth for their husbands. One of the major sources of money to buy cows, which in turn was used to obtain wives, came from the agricultural surplus produced by the women themselves. The ever increasing labor demanded of the women caused them to rebel by leaving their husbands, and taking up residence with other men or by going home to their parents. The increased importance of women as producers of wealth in turn caused men to attempt to achieve more control over both daughters and wives. This development expressed in changes in customary law reinforced the husband's rights at the expense of the wife's.

In the beginning of the agricultural expansion, the traditional division of labor as described in chapters two and three, was practiced. With the development of agricultural production for sale a new division of family land emerged. A special field was set aside for the husband, the *emonga*, where crops for cash sale were grown. Early in the colonial period the *emonga* constituted a small portion of family land, but in the 1940s husbands with access to ploughs cleared and prepared big fields, expanding the *emonga* at the expense of their wives' gardens (P. Mayer 1951:14). Initially men were responsible for working on these fields, calling male working parties when necessary (P. Mayer 1951:10). Women were largely responsible for organizing the production on their own fields and controlled the use of the output (P. Mayer 1951:10; R. LeVine 1962:532).

In the 1940s and 1950s, with the growth in agricultural production, more and more burdens were placed on the shoulders of women. Wives were now required to work on the husbands' fields, producing crops for sale but having no control over the income earned. The money earned was used by the husband for bridewealth payments or business investments (cf R. LeVine 1962:535). Thus norms regulating the allocation of human and material resources within the family had changed in favor of husbands.

By 1957, R. LeVine & B. LeVine observe that in their community:

> Women are burdened more than ever with agricultural activities in addition to domestic chores...Men who are at home devote themselves to non-routine tasks: the clearing of the bush for a new field, ploughing, building or mending fences, building houses and granaries. In addition, they take charge of the coffee garden...It is women,

however, who are responsible for most of the hoeing, sowing, weeding and harvesting, as well as grinding the grain, cooking, gathering firewood and wild vegetables (1966:14).

A new division of labor has emerged in which the men have ceased performing most agricultural tasks, especially weeding, which today is regarded as a female occupation. Judging from the LeVines' description, other routine agricultural tasks were also shunned by men.

Changes in the division of labor were partly due to the fact that men had entered into wage labor and various other cash earning enterprises. Many of the young unmarried men picked tea at Kericho, earning cash for their bridewealth. A great number of married men were engaged in business, in the form of cattle trade, small shops and restaurants, tailors, etc. (R. LeVine 1962).

2. *Control of women and "customary law"*

Women's importance as a source of labor grew during the colonial era. As I have shown they became responsible for producing larger and larger amounts of grain for sale, and took over most of the agricultural work load from the men. This did not lead to increased freedom to run their own lives and use the fruits of their labor. On the contrary they became burdened with labor, and their movements became the object of male control.

In the 1920s more and more women left their husbands and lived with other men or with their parents or brothers. The latter were however very likely to send a daughter or sister back to her husband rather than risk a divorce, which would mean that they had to repay bridewealth.

By the end of the 1940s, wives commonly left their husbands for extended periods of time. According to I. Mayer: "men's stock complaints were about those they could not force: 'runaway'daughters, 'roaming' wives, sexually 'burning ones' who went 'from one man to another'...'un-ringers' who cut off the distinctive ankle-rings of the married woman when they fled their husbands, so that the men they met should be less wary of them" (1975:277). She estimates that about half of the women at the time of her study in the late 1940s did 'run' at least once in their lifetime either from their fathers or, after marriage from their husbands (*ibid.*:277).

To leave a husband had been one of wive's most effective means for asserting their rights in the pre-colonial period. This was possible due to a political situation in which husbands could not easily retrieve their runaway wives. Hence, women could retain a certain amount of freedom vis-á-vis their husbands. With the establishment of colonial administration and a court system, men gained powerful tools with which to control their wives. P. Mayer points out that, "today, when the native courts send their messengers to pursue runaway women and return them to their husbands, the latter can command far more effective physical force than they could when they had to go and look for their own wives" (P. Mayer, in Mair 1969:66).

Wives who left their husbands must have been disruptive for the household economy and the cash crop production. Therefore new customary law soon evolved to safeguard the husband's rights to his wife's services in the field and in the home.

With the establishment of colonial rule virtually all legal arbitration concerning civil cases took place within the Native Tribunal Courts. These courts were presided over by a number of older men who served according to a large roster of elders. They were supposed to judge cases according to customary law and achieve traditional settlements, but they were also empowered to impose a western type of punishment such as fines and imprisonment. In addition, together with the chiefs, they commanded a police force with which they could implement decisions.

Within this framework it became a breach of customary law to live with someone else's wife. The court could send *askaris* (native police) to fetch the wife back to her husband and have the man with whom she was living arrested.

In 1920, an official report states: "The elders have begun to use their powers as native tribunals to furnish imprisonment or fine a growing number of offenses against marriage customs, i.e., enticing married women from their husbands" (Pol. Rec. Book. 1907-1924). By the end of the forties such cases had become among the most common in the courts (I.Mayer 1975:277). The capacity of the court to retrieve the runaway wives did not suffice and in 1944 we read in the minutes of the Local Native Council that the "returning of runaway wives by unauthorized persons was on the increase" (SN LNC min. 9/44).

The punishment for adultery was imposed on men housing runaway wives, and they were sentenced to four months hard labor and a fine of 250shs (NTO 1949). Clearly this is an innovation compared with the traditional situation in which no punishment or compensations were exacted from men living with runaway wives. It was very much up to the elders in the tribunal courts to decide what was customary law, and they apparently saw the court as an instrument for social control. In one letter from the DC in Kisii to the Native Courts Officer it is clear why the court elders insisted upon adultery being severely punished: "they [the elders] are unable to implement the old tribal taboos, nor are they in position to, insist on the cleansing ceremony being properly carried out"[2] (NTO 1949).

3. Divorce law

Within 10 years of the establishment of colonial administration, divorce law was drastically altered. Previously divorce was only possible through a complete refund of all bridewealth and the return of the woman and her children to her family. By 1922 the new divorce law entitled the husband to retain the children and obtain a refund of bridewealth minus a deduction for children (P. Mayer 1950a:52-53).

According to P. Mayer (1950a:51), this law was developed with the encouragement of the colonial administration . It was regarded as more humane to the wife, enabling her to leave a husband whom she could not abide. Unfortunately P. Mayer is not very specific about how this new law was brought into being. A search of the relevant files in the National Archives in Nairobi did not reveal any clues. That the change must have taken place early in this century is further corroborated by the fact that I could not find any elder who remembered the old divorce rules[3].

It is only possible to guess why the divorce law was rapidly accepted by the Gusii. It undoubtedly had a number of advantages. Its effects were to diminish the number of cattle that had to be refunded by the wife-givers in the case of divorce, and it gave the husband the possibility to divorce his wife without losing his children, thus benefiting both wife-givers and wife-takers. The women also benefitted because they could permanently leave a husband.

The new administration and judicial system also made it easier to enforce such a law because the restitution of bridewealth could be handled effectively across clan boundaries.

The new divorce law took the form of an alternative claim: the return of either the cattle or the wife. If the wife-givers had already used the bridewealth cattle they could either wait until the daughter married another man, enabling her father to transfer the new bridewealth to the old husband, or the wife-givers could give another daughter as a new wife (P. Mayer 1950a:55).

According to a number of sources,[4] there was an increase in divorce during the colonial period, which some attribute to the new divorce law facilitating the dissolution of marriages. Although women had no legal rights according to customary law to demand a divorce, they could present their case to elders of the tribunal court, which under the influence of the administration tended to regard women's evidence more favorably than local elders.

The following causes were considered to justify both women and men in seeking divorce (P. Mayer 1950a:54). Women could seek divorce:

1. If husband or co-wife inflicted severe physical injury on the wife.
2. If husband repeatedly failed to eat the food prepared by her. This is a serious insult, implying an accusation of witchcraft.
3. If husband or co-wife was a reputed witch.
4. If husband was sexually impotent.
5. If husband did not build her a house in reasonable time.

A husband was considered justified in suing for a divorce on the following grounds:

1. If wife was excessively insubordinate and refused to work for him or to prepare his food.
2. If she continually made trouble in the homestead by tormenting his other wives and children.
3. If she was a reputed witch.
4. If she repeatedly committed adultery.
5. If she deserted him for another man.

Since these causes justified divorce, they also express the rights and obligations which were established through marriage. A husband had the obligation to build a house for his wife, to avoid strong insults and severe physical punishment. He should also serve her sexually and protect her from exposure to witchcraft in her homestead.

The wife had the obligation to obey her husband unquestioningly, to work for him and prepare his food, and to avoid having sexual intercourse with another man. She should also not harass the homestead members.

The new development in divorce law clearly emphasizes the wife's role as a worker, which is in agreement with the customary law which emanated from the tribunal courts and sought to strengthen the men's control over women. Although the wife gained recognized rights in her husband, these can be seen as necessary complements to the customary laws which restricted her movement. In the pre-colonial period, if the husband beat his wife excessively, did not have sexual intercourse with her or did not build a house she would run away to other men. The new laws made it illegal to harbor other men's wives, the availability of a police force made it possible to apprehend runaway wives, and the divorce rules allowed a husband to divorce a wife who deserted him for another man. It is probable that these laws and means of reinforcement were designed to restrict a woman's movements and confine her to her husband's homestead. Hence, rather than viewing the women's rights to divorce as a result of humanitarian consideration of women's well-being, they can be seen as a complement to the new severe restrictions placed on women. The laws which were designed to keep the wife at home had to be accompanied by laws that protected her from the most flagrant abuses. Excessive beatings and the husband's impotence were strong reasons for a woman to leave him for another man. I suggest that the rules allowing a woman to divorce are related to the rules which aim at preventing her from leaving her husband. It must have been difficult to force a woman to stay with a husband who beat her excessively or was impotent, hence granting divorce under such circumstances eliminated a number of court cases involving repeated adultery and escapes by the same women.

4. Market and marriage

The latent competition for wives in the pre-colonial society now gained full force through access to wealth outside the marriage exchange system.

The demand for wives in Gusii society was, in theory, unlimited, polygyny being frequent and desired by all men. In the pre-colonial period political prestige and power were attained through a large family. Many sons gave power and protection, and many wives were the visible symbols of an important man in the clan. This desire for many wives and as many sons as possible continued into the colonial and post-colonial periods. However, today economic necessity and social change has made most young men less inclined to marry more than one wife.

Although new kinds of goods and activities such as business, being a court elder, having formal Western clothing, Western style house etc., became associated with wealth and prestige, at the end of the 1950s wives were still a prevalent form of conspicuous investment for men. For example, the Nyaribari Chief Musa Nyandusi had a car, coffee plantation and four power mills and was always dressed in formal western clothing, but he also had 14 wives. Also men of lesser wealth and power who were teachers, business men and court elders (sometimes all three during their active life) had many wives. Several of my older male informants who were former court elders with a background in business and teaching or clerical work, have four to six wives. To the demand for wives as symbols of wealth and producers of children the new dimension of wives as producers of wealth was added.

In the 1940s both anthropologists (I.Mayer 1975:276) and administrators (SK LNC min. 3/8/1939; SK LNC1944 Min. 9/44) report that marriages had taken the form of sale, and wife-givers forced daughters to marry the highest bidder, often wealthy old polygynists. Earlier, in 1931, the Provincial Commissioner in Nyanza remarks that "brideprice is degenerating into sale" (PC/NZA/3/18/20). By 1946 the Local Native Council Minutes state that: "Nowadays the fathers of girls use bridewealth to become rich. Selling their daughters as if they were trafficking in slaves [*sic*]" (SN LNC min. 45/45,1945).

The character of the bridewealth situation, as documented by contemporary observers, is connected to the open market where wealthy men outbid poorer rivals in marriage, and where the brothers or fathers extort high payments, as observed by P. Mayer (1951:21). By the end of the period, rights in women and bridewealth had become commodities, sources of wealth which could be transacted with gain in mind. A method for realizing several brideprices for the same woman developed in the 1940s and 1950s, whereby brothers or fathers encouraged their daughters or sisters to divorce and remarry (SK LNC min. 16/42 1931; Kisii Law Panel 1954). The court records from this period contain many such cases in which men apply for the divorce of their sisters or daughters.

Two factors made this a profitable affair. First, when a wife divorced her husband her guardian had to refund the bridewealth minus two cows per child she had borne to her husband. Second, since the demand for women was high, the fact that she had already borne one child did not devalue her in her next marriage. Third, the continuous increase in bridewealth actually made it possible to obtain a higher bridewealth in the second marriage

A particularly illustrative case was heard by a Native Tribunal in 1943. A brother first used six cows, received as bridewealth for his sister, to marry. Later she divorced her husband, the brother returned the cattle and then she remarried for nine cows, divorced again and remarried a third time for 11 cows. In the course of these remarriages the brother earned at least five cows (Civil Case No 36, DO's court, Kisii). Unfortunately, the case does not mention whether there were deductions for children, in which case he would have gained even more animals in these transactions.

Bridewealth and rights in women in Gusii Land came close to being treated as commodities on a market. There remained, however, one condition which kept women from being sold like slaves, viz., the rule that a women could not, at divorce, be transferred from one husband to another. The bridewealth always had to be paid to the father or brother, who then forwarded his due to the original husband. It was considered to break a taboo with grave magical consequences if a man transferred his divorced wife to another man, and received the bridewealth directly. The thought was, however, not alien to the Gusii. At a law panel meeting in Gusii Land in 1956, a suggestion that brideprice should be refunded directly from the second husband to the first was rejected (KLP 1956 min. 10/56).

Although elopement by girls was known in pre-colonial and early colonial days, it was rare and did not evoke any actions by the guardians. In the 1920s elopements started to increase and continued to do so throughout the period. Anthropologists and administrative officials alike, attributed this to the increased number of forced marriages (SK LNC 1939 min. 3/8; SNAR 1946; SN LNC 1944 min. 9/44; I. Mayer 1975:276f). Other methods of protesting against being forced to marry wealthy old polygynists were suicide or deliberate self-injury.

The girls' attempts to escape forced marriages coincided with an increased difficulty for young men to obtain enough cattle with which to marry. In the absence of a sister whose bridewealth could be used for marriage young men had to work for wages in order to obtain enough money to buy cows. That this could take a long time is evidenced by R. LeVine & B. LeVine (1966:50), who mention that in 1956 it took four years work on tea plantations to earn enough money to pay the minimal bridewealth.

Hence, bridewealth rose due to continuous bidding by wealthy men, and the demand for increased brideprices by wife-givers simultaneously created a situation where daughters fled their homes and young men were encouraged to receive such girls. A vicious circle was formed in which these processes fed each other.

Again, the elders tried to solve a problem by an innovation in customary law. Through the Native Tribunal Courts a new customary law offense was created, named, "Removing a girl from custody of her parents". The punishment for this offense was six months in a labor camp (NTO 1949). This measure seemingly had little effect in controlling the situation, especially since it became possible to escape the law by moving to the tea estates in nearby Kericho. Again, this is an innovation, whereas earlier there had been no compensation for a father if his daughter ran away or even if she became pregnant.

Conclusion

The colonial administrative apparatus effected two important changes in the institutional framework of Gusii society, which coordinated with the changing economy in altering the position of women vis-á-vis men. The establish-

ment of peace and the district-wide legal administration and new laws made it difficult for wives to escape their husbands' control, thus eliminating a powerful source of leverage in family relations. The power relationship tilted in favor of men, leading to an erosion of wives' rights to resources within the family.

The market economy opened up an avenue for wealth accumulation by men, and the growing dependence on the market for a variety of goods contributed to an increase in exploitation of women's labor. These effects have been documented in a number of East African societies. Several researchers point to men's access to money through wage labor and cash crops as favoring men at the expense of women. In addition, British colonial policy in giving agricultural assistance to men and encouraging male ownership of land, is also cited as reducing women's control over resources vis-á-vis men (Oboler 1985: 314ff; Pala 1980).

Although these processes, which also operated in Gusii Land, are necessary conditions for the changing status relationships between husbands and wives, they are not sufficient. As Hay (1982) has pointed out with respect to Luo Land, men used their position in the colonial legal apparatus to manipulate customary law for the purpose of controlling women. Thus the colonial institutional framework gave men as husbands a powerful instrument for effecting changes in family relationships. In addition, the centralization of political control also worked against women since it reduced the effectiveness of their withdrawal from cooperation with their husbands.

1. The introduction of money

Bridewealth enters into this process as the means by which the status of wives is established. Hence, the continuous increase in bridewealth during the colonial period also contributed *per se* to increased dependence on money and women's labor contributions. It is often claimed that one of the main factors behind the increase in bridewealth and its use for obtaining rights to women's labor is money. When money is introduced as a medium for bridewealth payments it takes on a "mercenary" character and is spent on personal gratification rather than the making of a new marriage (Mair 1969:153). Fathers and brothers try to profit from their daughters' or sisters' marriages (Kuper 1970), and wife-givers tend to ask the highest price possible and to marry off the girls to the highest bidder (Mair 1971:57). The reasons for this are that cash is a privatizing medium, which can be withheld from kinsmen (Parkin 1980:207-208), and that it can be exchanged for many other things (Mair 1969:19).

According to this viewpoint, marriage with cattle is a social event, and as long as bridewealth is used for marriage no one has actually made a private gain (Mair 1971:55f). Private gains come when the receiver uses bridewealth for other purposes than marriage. As long as cattle are used, their "public" character ensures that bridewealth is not excessive. Since they circulate continuously they cannot be seen as a source of accumulation (Mair 1971:54).

The wife-takers just give as much as possible and are not thereby impoverished (Mair 1971:52; Kuper 1970), apparently because cattle are only seen as a means of making social relationships, which are not a source of gain.

However, to a great extent, the Gusii retained the exclusive use of cattle in bridewealth throughout the colonial period and still displayed "commercial" and "mercenary" behavior with respect hereto. While monetization of bridewealth can contribute to the development of market-like transactions it may not be a necessary condition to their development. Instead, I argue that it is not the money which makes bridewealth more commercial but rather the market economy.

The prerequisite for rivalry in relation to marriage and other types of exchange indeed existed in pre-colonial Gusii culture. However, structural conditions in the form of the house property system suppressed overt competition in the marriage sphere.

The potential for the subsequent developments in the colonial period is to be found in three aspects of Gusii society. First is the big man type of political economy with its emphasis on personal achievement and domination over less successful kin. Second is the existence of a father's herd, *chiombe chenibo*, over which he had full control. It was obtained through exchange of goats and grain for cattle, through raiding or through inheritance. This herd was never large in the pre-colonial days. The concept of a father's private herd which he could use freely, was to become the decisive factor enabling men to enter into large scale competition with personally obtained wealth, unencumbered by house claims. Third, the segmentary lineage model as a principle for social and economic interaction provided the basis for intensified competition. Land scarcity, the change from cattle husbandry as the main form for wealth generation to cash crop agriculture, and administrative centralization removed the reasons for cooperation between lower order segments, as well as the competition between higher order segments. Instead competition became focused on families within lower segments.

Furthermore, it is the indigenous notion of what is considered wealth, gain or loss in the culture which is important in understanding the role of cattle exchanges. A poor man in Gusii Land was a man with one wife. He was not respected and was at the mercy of big men (R. LeVine 1962). His poverty consisted in, and was caused by lack of cattle. The evidence presented in this chapter also makes it clear that there was no need for money to enter the bridewealth circulation in order to create all those aspects of market exchange which the above authors list. Those able to obtain a high bridewealth made a gain both in indigenous terms and in terms of the market economy. The more cattle a man had, the more wives he could marry and the more sons he would have; in indigenous terms this was considered prestigeful and broadened the power base. The wives also contributed to monetary gain and investments by producing a marketable surplus of grain, and, through managing the farm, by enabling the husband to undertake other income earning activities.

Notes

[1] The growth in cattle herds between 1930 and 1950 implied by these figures is almost sevenfold. A natural growth rate of this magnitude is highly unlikely (cf. Dahl & Hjort 1976:66ff), hence either the figure from 1930 is grossly underestimated, or a large number of cattle were obtained through purchase. I believe that both factors actually account for the difference between the 1930 estimate and the 1950 census.

[2] Adultery by a woman was believed to have supernatural consequences of illness or death to her husband or the men she slept with. If she confessed to her husband and submitted to a cleansing ceremony these consequences were averted (R. LeVine 1959).

[3] A memo from the DC of South Kavirondo in 1922 states that according to old Gusii custom a husband had no claim whatsoever to the children of his divorced wife. See also KLP (1954 min. 10)

[4] According to the Kisii section of the South Nyanza Law panel, 1954, there was a growth in the number of divorce cases. The panel attributes this to the new divorce rules which allow a husband to keep his children. This encourages parents of a wife to agree to a second marriage because they gain the balance of the first bridewealth. The panel also maintains that another cause is found in the fact that the courts sometimes attach more importance to a woman's evidence than to her parents' (KLP 1954 min. 10). This is also confirmed by elderly informants who maintain that divorce is rarer today.

A typically densely cultivated landscape in Kisii District, with a view of Keroka town.

Gusii farms occupy strips of land extending from the hilltops to the valley bottoms. Each farm holding is demarcated by a hedge.

A peasant homestead

A wealthy employed farmer with one of his prized possesions: a European cow.
Photo: Monica Udvardy.

A Gusii mother with her son and his age-mates in the family's tea plantation.

Women drying fermented maize for the preparation of beer

Old woman wearing ebetinge.

A Gusii nurse at a hospital ward in Kisii Town.
Photo: Elsie Bengtsson.

Ebetinge. The ankle rings put on wives at the traditional wedding ceremony. Although not made anymore, some old women still wear them.

Bridewealth negotiations at the home of a moderately wealthy and employed farmer. Photo: Monica Udvardy.

Taking home the bridewealth cattle.

PART III.

The contemporary role of bridewealth

Chapter 6

Contemporary Gusii Society and Economy

Introduction

Chapters 6 and 7 describe the main aspects of current socio-economic organization and the changes which have taken place in Gusii Land since the late 1960s. I summarize aspects of traditional social organization as it exists today and the new forms which have emerged. The modern economy and administrative structure are also discussed as well as modern conditions and socio-cultural features, some of which are still as they were 40 or 50 years ago. In most aspects much change has occured. Such change will only be treated if, from my point of view, it directly pertains to bridewealth and marriage.

Since the 1950s socio-economic change has proceeded at an accelerating rate. Not only has Kisii District become one of the most productive cash crop areas in Kenya, the economic prosperity has also been accompanied by an explosive population growth, between 3-4 percent per year. Kisii is now the most densely populated non-urban district in Kenya with a population of approximately 460 persons per square kilometer.

Table 3. Population in Kisii District.
Source: Popultion Cenuses.

1962	–	519,418
1969	–	675,041
1979	–	869,512

The population is young and it is estimated that 53.3 percent are 14 years old or younger (KSCS 142). Most of the population is rural, and the only urban centers of any size are Kisii Town and Keroka. Only 3.6 percent of the Gusii live in urban centers (*ibid.*:147). According to the 1979 census the Gusii average 8.7 births per woman (compared with a national average of 8.1) and this figure has been increasing since the 1960s. This, together with 101 deaths per 1000 births (the lowest level of child mortality in Nyanza Province), is

producing the population growth (*ibid.*:153). Migration from the district is low, and only 5.6 percent have migrated to farms in Rift Valley, 2.4 percent to Kericho and 1.3 percent to Nairobi (*ibid.*:154).

The district headquarters is in Kisii Town where the District Commissioner's (DC) office is located together with various government agencies and the local government. It is a commercial center with numerous wholesale and retail shops, petrol stations, workshops and a big central market for food produce. In and around Kisii Town are also a number of private and state run schools, a polytechnic and a nursing college attached to the government hospital. There are also several private hospitals and clinics.

The district is divided into administrative subunits of decreasing size: divisions, locations, and sublocations. The sublocations roughly correspond to clan areas and are administered by an assistant chief. The assistant chiefs are under a chief who has the administrative responsibility for a location, and each division is administered by a district officer who in turn answers to the DC in Kisii Town. Parallel to the very powerful administrative machinery, a number of elected officials have seats on the county council which is mostly concerned with infrastructural duties such as road maintenance, school building, hospital and other social services. The ultimate decision-making power rests with the administrative agencies which govern matters of law and order, agricultural development, industry, elections, veterinary departments, and land adjudication.

Education is in high demand and there are about 200 secondary schools, the majority of which are *harambee* (local self-help program, a Swahili word meaning "pull together") and private schools. Parents want their children to attend school but the costs are prohibitive for many. Although primary schools have no school fees, there are costs involved. The parents are required to contribute a couple of hundred shillings yearly to building funds, and school uniforms. Reading and writing materials also must be provided.

A majority of Gusii men and women between 5 and 24 years of age have attended school. According to the Census of 1978, 146,928 females over 5 years of age were reported to have attended school while 74,724 had not. 167,312 males had attended school while 93,838 had not (Kenya population census 1979). These figures do not disclose the big difference between males and females with respect to number of years of schooling and the highest level attended. I have no statistics which show this difference, but judging from my material it is great: males attend school for longer periods than females and also reach higher levels of education. Twenty years ago it was not considered necessary to invest in girls' education. This attitude still exists, but is gradually changing, wherefore many girls today also receive secondary education albeit to a lesser extent than boys.

Secondary school education is very costly for the average farmers. School fees vary between 1,500 to 3,000 shs per year. Most schools are residential and higher fees, around 3,000 shs, involve board for the pupil. School fees represent the major expenditure for farmers, be they poor or wealthy, and those who can afford it will keep as many children as possible in secondary

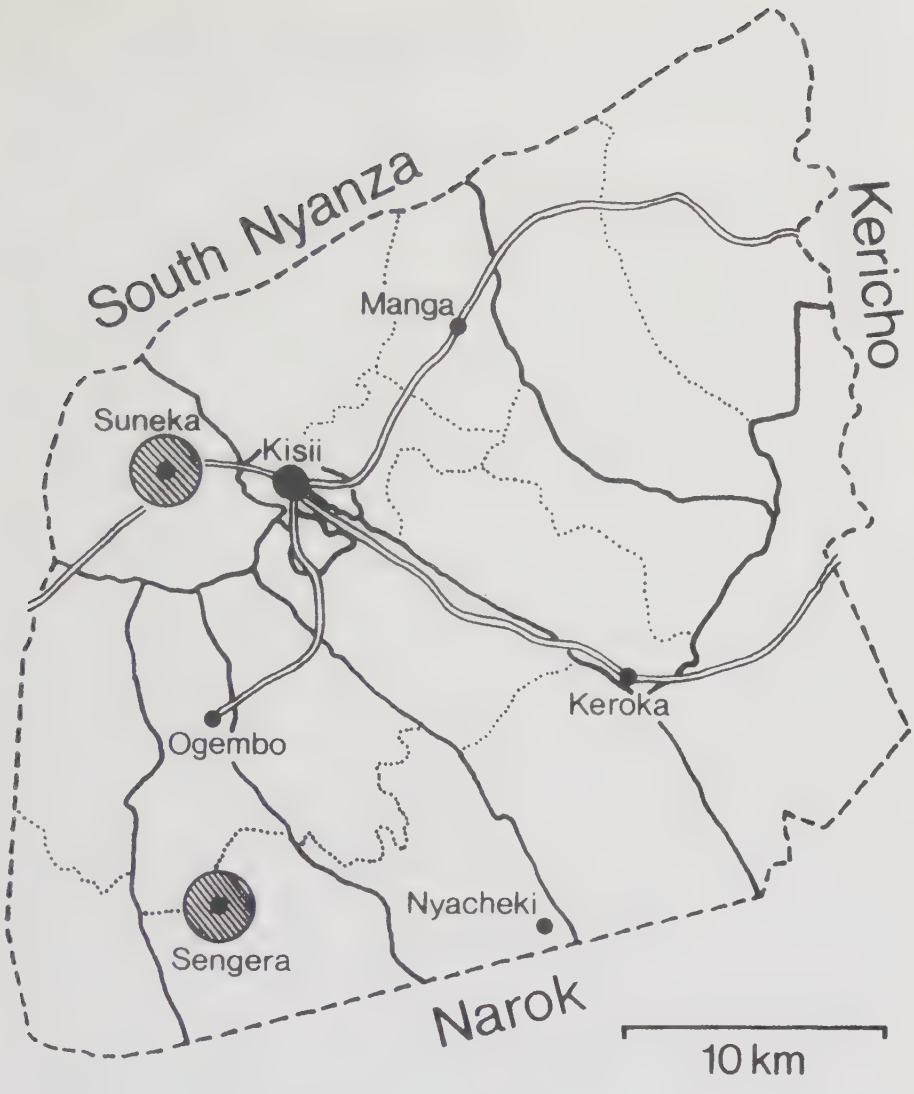


Fig. 8. Map of present-day Kisii district.

school. Many familes may have several children in secondary school. One family I knew had two children in Form Four (the 13th year of school) paying a total of 3,000 shs/year, one son in Form Six paying 2,000 shs/year, and finally a child in primary school that cost them 500 shs annually. This adds up to 5,500 shs per year in fees and related expenditures. The same family estimated their income from agriculture to be about 6,500 shs in 1982, leaving a surplus of 1,000 shs. However, the husband is a driver, and most of the school fees are covered by his wage. According to Bager (1980:52), instead of investing monetary returns in agriculture, the farmers in his study pay most of their surplus money in school fees. This propensity for investing surplus funds

in school fees goes back at least to the beginning of the 1970s when another study of rural economy showed the same trend (Wilemski 1975:224f). As will be demonstrated below, the same pattern is found with respect to the use of received bridewealth.

The Economy

Involvement in off-farm economic activities started to expand already in the 1940s and today most males have experience of at least intermittent employment and business activities. Most people hold unqualified jobs which do not require any specific educational background. These include farm labor, tea picking at the big estates in Kericho, construction labor, watchmen, cooks, or drivers. Some persons with secondary education have qualified employment, e.g., as teachers, clerks, forestry and agricultural officers, police and military, nurses, or secretaries.

Businesses vary from very small retail stores, *dukas*, to large hotels and transport firms. Some farmers may attempt to obtain additional income by having a small *duka* or *hoteli* (a small restaurant at the market place), and some may be able to establish a grinding mill or buy a vehicle for public transport (*matatu*). In general, business earnings constitute only a small part of household incomes while steady off-farm salaries contribute much to the economic viability of households[1]. Those who already have a substantial salary also engage in larger business ventures. It is common, e.g., for teachers to invest their salary in *matatus*, or large boarding houses from which they can then acquire more income. Since most households cannot meet their expenses and needs from agricultural income alone, they have to engage in some form of off-farm income-earning ventures. If subsistence production is converted into monetary value and added to direct monetary income, the production for subsistence represents half or less of a household's total incomes (Bager 1980:52; Kongstad & Mönsted 1979:90).

Salaries for different occupations vary. People with qualified jobs, such as teachers, nurses, and agricultural officers, range between 1,200 shs per month for a primary school teacher to 2,000-4,000 shs for a lower level civil servant such as an agricultural officer, qualified secondary school teacher or office clerk. Unqualified jobs as, e.g., laborers in agriculture or construction are poorly paid, 10-15 shs per day, and watchmen earn about 800 shs per month.

Agriculture constitutes the basis of the Gusii economy and much subsistence is derived from own production. The staple crops are maize and beans. A variety of other crops are also grown, e.g., finger millet, sorghum, Irish potatoes, sweet potatoes, indigenous vegetables, tomatoes, and ground nuts. Cash crops are mainly coffee, tea, and pyrethrum. In addition some sugar cane, pineapple, passion fruit and bananas are grown in the southern parts of the district.

Kisii District can be roughly be divided into two zones with slightly different climates: The highland zone between 1,800 meters and 2,100 meters suits

pyrethrum and tea and has only one growing season for food crops. In the other half of the district, the lowlands between 1,450 meters and 1,800 meters, coffee is the main cash crop together with bananas and sugar cane.

Most farms are small-holdings, ranging in size between 0.11 – 2.2 hectares (KSCS:76). Bager found the average farm size in his sample to be 2.2 hectares in 1979. There is still very little differentiation in land holdings. Most of the households over 4.1 hectares are polygynous, and the homestead head has not yet allowed a division of the land between the sons (Bager 1980). Farming is capital extensive and relies largely on family labor. Only farmers with large acreages and high income hire laborers on a temporary basis. Fertilizers and insecticides are used sparingly. The fallow fields are used as pasture. Mixed cropping is normal, and in many areas it is possible to harvest twice a year (Bager 1980:47). Around 30 percent of farmers' acreage is devoted to cash crops which are not allowed to encroach on subsistence crops. Food crops occupy a larger proportion of acreage on small than on large farms (Bager 1980:49; Wilemski 1975:223).

Gusii farms are located on hillsides and the fields are laid out as narrow strips from the hill tops to the valley bottoms. Most farmers have only one plot, and no scattered parcels occur unless the owner has bought land in other areas. This is due to the particular inheritance system in which all the sons inherit contiguous parcels of land from their father. A typical holding is divided into different land use from top to bottom in relation to the differential potential of the land on the slopes due to soil quality and water catchment. On hill tops the soil is thin and rain-washed. Here there is pasture or tree plantations of cypress gums and eucalyptus. Then follow fields with crops (one-half to one acre tea and one acre maize), houses, a fallow field with cattle, and then possibly bananas or some other crops. At the valley bottom, which is water-logged, cows may also be grazed, and vegetables or trees grown. Some farmers also have small ponds with *tilapia* fish.

The farmstead consists of one house per wife. Since the 1960s the traditional, round houses have disappeared and been replaced by rectangular structures of wood and clay with a thatched roof. Many also have so-called semi-permanent houses with mud walls plastered with cement. Iron roofs are popular and a sign of prestige and wealth and will be fastened on top of both mud houses and semi-permanent houses. Outside the main house there may be a smaller building which serves as a kitchen. The houses form a compound of two or three houses with doors facing into a central area where maize is threshed, beans dried, etc., and where the chickens forage.

The whole farm is surrounded by a thorny hedge which stretches from the top of the hill down to the valley bottom. Each farm has such hedges which are 1-1.5 meters high, and between them run straight footpaths from the road into the hill country. Such hedges cover over 8 percent of the total surface of the district (Epp, *et al* 1983). Hedges are important to prevent animals from entering the fields and destroying the crops. But they also ensure privacy and are a means of social demarcation. One can find narrow fields, five meters wide by 20 meters long, divided by hedges because they belong to different

half-brothers or brothers. I saw a most extreme example of hedges used to mark social boundaries in the Sengera study area. From the road down the valley for a distance of 500 meters the footpath had been divided into two by a hedge in the middle and hedges on each side. This was done by two half-brothers who were on bad terms and did not want to meet on the path, so they simply planted another hedge, wasting about 500 square meters of valuable land. Hence hedges are social boundary markers as well as devices to keep animals out. Trees are also planted as boundary markers because like the hedges, they cannot be moved. When I asked why they did not make fences of wood I was told that these could be moved inch by inch by neighbors so that they could aquire more land.

Agricultural equipment consists of the traditional hoes, *jembes*. Only a few farmers own ploughs. Those who have ploughs often rent them out together with oxen. Women and children execute most of the agricultural labor of weeding, hoeing, and planting. They also carry out most household chores such as fetching water, collecting firewood, tending livestock, selling milk and surplus food and also carrying cash crops to the buying centers. Men are employed outside the farm and will help only with tasks such as house building, heavy hoeing, and clearing, fencing and ploughing. If the men are not employed they spend much time visiting friends and drinking in neighbors' houses. Casual observation suggests that women perform at least three-quarters of the total labor on average peasant farms. As an illustration, it was almost impossible to find men at their farms between 8 A.M. and 5 P.M. although they had no off farm employment.

Gusii agriculture and economy are greatly affected by the rapid population growth and crowded rural conditions. One researcher estimated that the average farm size in his sample area was 2.2 hectares, while the estimated minimum size for one family to derive bare subsistence is 1.1 hectares. However, he calculates that in one generation the future average farm size in his area will be 0.7 hectare, leaving most families with no, or very little land (Bager 1980; cf. Lanting 1977). Clearly land shortage is an enormous problem in Kisii. Although I have no figures about landlessness, a large number of people must already have been squeezed out of the farming sector. It is not unusual to find farms which are undivided although the sons are adult and may be married. Such farms are so small, comprising 1-2 hectares, that they have not been divided because the plots would be so tiny that separate cultivation would be impracticable. Instead a number of farmers try to solve this dilemma by letting employed sons buy or rent land outside the district or invest in businesses while those without steady employment stay at home. But such measures cannot solve the land problem for the majority of farmers, since unemployment is increasing and land inside the district is becoming very expensive.

The Gusii also keep both *zebu* and exotic European cattle. Goats, sheep, and poultry are common. Grazing is becoming scarce and cattle owners utilize every available space for their animals, especially the roadsides which always appear to have been cut by a lawnmower.

Milk is in high demand in Gusii Land where it is drunk fresh or as sour milk. It is considered a necessary nutritional ingredient, especially for children. In addition goats and sheep are kept and goatmeat is a favorite dish. Goats are still used for sacrifice on occasions such as funerals or to please ancestor spirits.

The household is dependent on the market in order to satisfy most of its needs. Likewise, most of the monetary value of household incomes comes from market exchange either in the form of crop sales or wage labor. The major expenditures for a peasant family are food, cooking oil and fat, kerosene, clothes, bus and *matatu* transport, soap, hospital fees, school fees, and school books. If they can afford them, radios are popular as are kerosene lamps and torchlights. Agricultural investments are low and pesticides and fertilizer are bought in small quantities.

1. Land tenure

The emergence of family based land tenure and enclosure during the 1940s was followed by registration of land and the issue of title deeds in the names of individual men. Land registration began in the early 1960s, and today all Gusii Land has been surveyed and registered. Before 1982, a husband could sell his land before his sons had reached maturity, and without consulting his wife or his brothers, if the land was registered in his name. Formerly wives had no legal power to resist their husbands' sale of land. But in 1982, husbands' ability to sell land without wives' consent was curtailed when land boards controlling land sales, were established in most parts of Kenya. Such boards comprise the District Officer, chiefs, ex-chiefs and councillors who review all land sales. They only allow a man to sell land with the consent of his wives and sons and then only if he retains two acres for himself and his family after the sale.

The land market is still circumscribed and land sales are rare. When land is sold, it is mostly as parts of holdings rather than whole farms. In my study area the overwhelming majority of farmers were still working on inherited land. This impression is also confirmed by Bager (1980) who, in his agricultural study, found that in a sample of 101 households in an area in northern Kisii, purchased land accounted for only 3 percent of the total land holdings. Theoretically the registration of land should facilitate land sales by overriding traditional tenure. However, this has not generally been the case. In some sense land is still considered to be the common property of a group of brothers and half-brothers, even though it is already divided amongst them. This notion of common interest in land does not mean that brothers will share land. On the contrary land is carefully demarcated with fences and thorny hedges and jealously guarded. Brothers and half-brothers have a common interest in each other's land through potential heirship and through common descent from one father. Consequently men who try to sell their land often meet with opposition from close patrilineal relatives, who frequently succeed in reversing the sale.

Once registered, however, subsequent land division is usually carried out through customary procedures rather than by consulting a land surveyor and splitting the title deed. Many title deeds in my study areas are in the name of dead fathers and grandfathers. The heirs divide land between themselves using ropes to measure plots, a procedure witnessed by local elders (father's brothers and half-brothers).

2. Summing up:

The Gusii people today live in a society which in many respects is very different from the situation which their mothers and fathers faced 40 years ago. In this and the following chapters I describe and analyze some of the major alterations in Gusii social and economic life with special reference to bridewealth and marriage. I have delineated the contemporary character of Gusii society and economy and its place in the national administration.

In the following chapters, aspects of the background outlined here will recur as conditions which affect, or are affected by bridewealth transactions. It is not my purpose to give a complete account of social change from the colonial period up to now, but to identify social and economic processes involving bridewealth transactions.

A number of ecological and strategic constraints affecting bridewealth transactions have changed since the colonial period, such as the expanding and diversifying administrative apparatus, land shortage, population growth and a dependence on market transactions. Furthermore, new social groups not based on lineage ties have emerged, while the traditional social categories have diminished in importance. Such social groups founded on economic, educational, religious, and occupational status are creating social and economic stratification, and heterogeneity. Thus, people in different social groups experience different constraints and opportunities which affect both the form of their bridewealth transactions and the norms and values to which they adhere.

Notes

[1] In an economic study in Mwogeto sublocation north of Kisii Town, Bager (1980) found that 19% of the total income of households in his sample came from business and 36% came from qualified employment; 27% derived from unqualified jobs and 23% from agriculture.

Chapter 7

Modern Forms of Social Organization

Introduction

The main aspects of contemporary Gusii economic and political organization were presented in the previous chapter. In this chapter I describe the present-day social categories and groups that provide the context for bridewealth and marriage. The first part of the chapter delineates those aspects of traditional social organization which still exist as ideological categories and in social and economic action. The second part deals with emerging forms of social interaction and ideals which constitute an alternative frame of reference for bridewealth transactions.

Aspects of traditional social organization today

1. The clan

In most parts of modern Gusii Land, clans correspond to the administrative units called sublocations. Although settlement in border areas has led to the formation of mixed communities, clans are still to a large extent territorially defined. The clan is the unit of exogamy. Young people know their clan names, and that marriage with members of their clan is prohibited. The exogamy principle is usually followed, but rumors are now and then heard of marriages "too near to home".

According to earlier anthropologists, the term for clan is *eamaate* (P. Mayer 1949; I. Mayer 1965; R. & B. LeVine 1966). Usage has changed, however, and the designation of the exogamous unit is confused. Some informants say *eamaate* means neighbors who are not necessarily patrilineal relatives. Other informants claim that the term *eamaate* stands for a subdivision of the clan, such as *enyomba* or house. The *enyomba* is sometimes said to denote both the house (i.e., a subdivision of the clan) and the clan. This terminological confusion may be of recent date, or earlier ethnographers may have invested the term *eamaate* with a greater precision of meaning than it actually had. I feel, however, that three ethnographers with several years research each in the area are to be trusted. Hence it is likely that the meaning of the term for the exogamous social unit has become ambiguous.

This loss of terminological precision may be associated with the decreased importance of the clan as a territorial unit. The last disputes between clans over land occured in the early 1960s. Today, all land is registered, and clan boundaries are irretrievably fixed. Disputes now take place between brothers and half-brothers, who fight over patrimony.

At present, the unity of the clan has few practical referents. Although clan members sometimes say "we are the same people" or "we are all relatives", these statements seldom imply any form of coordinated action. There are few issues in which clan membership becomes the rationale for common action. In parliamentary elections, clans try to put forward their own candidates who can count on their clan's votes. The smaller divisions of clans unite to elect their own members to the boards of cooperatives (Bager 1980:89; Hedlund, personal communication). If a young man or woman has been accepted by a foreign university, he/she may receive financial support from his/her own clan members. The clan on whose territory a school is situated, may demand that the teachers hired there be members of the local clan.

2. The Lineage

The *riiga* is also losing its importance as a field of social action. Its members assemble for funerals and are considered close relatives. When adversaries cannot agree on a compromise, the male elders of the *riiga* are called to settle the dispute. The male elders also witness land divisions. Cooperation in the defense of property has lapsed, as has communal herding of lineage cattle. The traditional work group, *risaga*, which was based in part on joint lineage membership, has all but disappeared. The decline in the size of most holdings has removed the need for large communal labor groups. On large farms, wage laborers are employed during busy seasons.

Although male *riiga* members have potential hereditary rights in each other's property, the land shortage and the large number of surviving children make this little more than a hypothetical possibility.

Cooperation and reciprocity between members of the riiga are rare[1]. Loans or gifts of money, food, labor, and farming equipment, e.g., ploughs, are restricted to the immediate group of agnates and their wives. Brothers and their wives assist one another, as do half-brothers, and father's brothers, brothers' sons, first patrilateral cousins, and the wives of all these categories of men. Assistance is seldom extended to the families of patrilateral cousins of remoter degrees.

To a great extent, regular social and economic interaction is limited to the sibling group. It is common for gainfully employed brothers and sisters to assist their younger siblings with money for school fees, school uniforms, books and clothes. Such assistance is usually confined to full siblings but may be extended to father's brothers and their families. The families of half-brothers actually exchange fewer gifts and loans than do the families of first cousins. A reason for this is to be found in the frequent disputes and competition over family resources between brothers with different mothers.

When brothers have established families they seldom continue to eat together, but they do share food and assist each other with loans of property and money. One family does not often own both a plough and a pair of oxen; therefore brothers may pool resources and plough each other's fields. If a man has a full plough-team, he will often lend this to his brothers. Although a man may lend his plough and oxen to a brother free of charge, from half-brothers and cousins the regular fees are demanded. Brothers may also turn to one another for emergency aid to help pay fines or hospital costs.

Even after marriage, women continue to give their parents and siblings gifts of food. To the extent that their husbands allow them, they also help their parents with cultivation. Hence, the sibling group provides mutual assistance. A woman's contact with her natal family, however, generally declines over the years.

In the Sengera study area, the women in many neighboring households routinely assist one another in performing agricultural tasks such as tea picking, weeding, and harvesting. This is done on a strict exchange basis. Men also form work groups for house-building and fencing. Food and drink are provided by the hosts' wives when such work groups gather. Labor cooperation of this sort is not uniformly organized and participation differs from family to family. These groups are *ad hoc* or organized by local associations of the nationwide women's group movement.

The large scale traditional work groups (small and large *risaga*) are no longer organized. The traditional *risaga* groups, which recruited on a lineage basis, became defunct during the 1960s. At that time, existing *risaga* groups consisted of members from different clans and sub-clans, and they were defined by territory rather than by descent group. In addition, although 50 years ago everyone belonged to such groups, by the 1960s more and more did not. The concept of *risaga* became confused and began to disappear from people's vocabularies (Nerlove 1969:38f).

In more densely populated areas of Gusii Land, plots are small enough to be cultivated by a wife alone. The decrease in farm size is one reason for the present lack of reciprocal cooperation between neighboring women. In many areas, women have lost the network for assistance and social interaction that was sustained by labor reciprocity (S. LeVine 1979:15). Alternative forms of mutual assistance and social interaction have emerged through the women's group movement (Maendeleo Wanawake and the Women's Bureau in the Ministry of Culture and Social Services). Apart from these official organizations, women of neighboring homesteads sometimes form beer-brewing societies, which brew large quantities of beer and pool the money.

In addition, rotating credit associations are also organized. These typically consist of brothers, half-brothers, father's brothers and their sons and/or their wives. The members contribute to the fund and take turns receiving the collected amount. In a second variety, all the contributing members draw lots, and the winner gets the collected money. Money raised in this fashion is used for buying furniture or materials for house construction.

The latent competition and hostility between half-brothers is manifested in conflicts over land and in inheritance-related quarrels. Attempts to readjust boundaries are frequent and are sure to cause friction and conflict. Since they have no grounds for competition, enmity more seldom prevails between male patrilateral cousins.

Quarrels between half-brothers or between brothers often end in blows, *baraza* cases, and accusations of witchcraft. Either the male adversaries or their wives will accuse each other of being witches (*abarogi*, pl.). Such accusations are very grave. If the charge is repeated, and if people believe it, the accused person may be killed. If the accusation is believed to be false the accuser may be taken to the chief for possible arrest.

The Gusii see fraternal conflict and absence of cooperation within the local lineage as results of land shortage and "lack of resources" According to the Gusii, relatives can no longer afford to assist each other since people are poor and have to spend their income on other things such as school fees, clothes, and houses.

The land shortage and the disappearance of cooperative work groups, common property, common defence needs, and the mutual interests of a lineage in opposition to other lineages have contributed to the social and economic isolation of households. This isolation is also evidenced in the devolution of property within the family. Sons obtain their patrimony after marriage and establish independent jural and economic units over which their father has very little power or influence.

3. The segmentary model and social action

The segmentary folk model as a principle for action has largely disappeared. It still exists as a model of how the social universe is constructed, but as a guideline for cooperation and competition its scope is very limited. Population growth and the ensuing land shortage have led to a constant subdivision of land and rigid boundaries between individual homesteads. Land is no longer the object of competition between groups. Formerly, the constant expansion of lineages evoked common action of lineages against each other. Competition over land shifted from the highest to the lowest segmentary levels. Consequently, cooperation between lower order segments has been reduced, and brothers and their wives fight over land and boundaries. The effects of the market economy have also contributed to this development by reducing the individual's dependence on relatives, as well as by providing possibilities for individual accumulation of wealth. Cooperation in cattle herding and defence of pasture land have also vanished since all communal pastures have been brought under cultivation.

Nowadays, as in pre-colonial times, Gusii women have few or no opportunities to reach political or economic prominence. Very few women control businesses of their own. A woman who does manage an enterprise does so on her husband's behalf. According to Gusii customary law, women cannot own property and must always have male guardians. The same principle also

operates with respect to political office, from which women have hitherto been excluded. Women are generally prohibited from holding shares in cooperative societies; therefore they seldom reach any positions of influence in these bodies (Bager 1980:91). Consequently, a description of the relationship between traditional forms of social organization and the acquisition of wealth and prestige will, to a large extent, concern the ambitions of men. The only avenue for wealth accumulation open to most women is the house property system and her children, especially her sons.

Today, wealth and influence for men come from business, employment, advanced education, and positions in (or links to) the administrative and political hierarchy. Access to these sources of wealth and influence lies outside the field of social action regulated by segmentary principles and alliances. A family gains wealth, prestige and influence by buying land, investing in businesses, educating children, and by having a member in the local or national bureaucracy. As one informant put it: "Today's wars are economic – not tribal"

Positions in the political apparatus and the party (Kenya National Union – KANU) also provide avenues for male personal advancement. Men who aspire to political office or a position on a cooperative board win voter support by generous hospitality. Election to political office depends on personal wealth, and the ability to donate money to local projects such as schools and dispensaries, as well as helping families pay school fees and supplying beer in abundance at elections.

Already in the late 1950s, R. LeVine & B. LeVine observed that the lineages in their study area did not develop any factionalism according to lineage segmentation, nor did the lineages form any basis for cooperation.

> Despite subdivision of the community on lineage ties there is no factionalism, partly because the community has few joint activities around which factions can crystallize. Individual homestead groups frequently develop antagonisms with one another and sometimes break off relations, but such quarrels arise within lineages rather than between them. The result is that there are no strongly cohesive groupings in Nyansongo (R. LeVine & B. LeVine 1966:33).

This well illustrates how the freezing of lineage territories confines conflict to lower order segments. The end result is the fragmentation of communities and a low level of interaction between homesteads that do not descend from the same mother. Acquisition of wealth does not lead to territorial expansion and the consequent evoking of segmentary solidarity. Although minor disputes are still adjudicated by male elders from the local lineage, ultimate authority is to be found in the administrative bureaucracy, the chiefs, district officers, and the courts.

Family expansion and wealth accumulation are continuations of pre-colonial cultural ideals, but the means for achieving these ideals have changed. Family expansion to control sources of wealth occurs mostly outside the framework of segmentary loyalties. Wealth is a result of qualified, well-paid employment and business ownership which are often individual or family

efforts. Educating children so that they can obtain jobs is seen as analogous to despatching of married sons to occupy land. The difference is that these new niches are found in institutions other than the domestic field, and their attainment is not dependent on the possession of cattle or many wives.

New social groups and categories

New social groups and institutions have emerged, within which people gain influence as well as support based on non-traditional recruitment principles and governed by other relationships. Education and economic position and activity have become the basis for the formation of new social groups whose members share interests and life styles. Local social life is today more integrated into national level decisions and interests through the administration, the judicial apparatus and the political party. Finally, the churches provide networks of assistance as well as avenues for the acquisition of influence and prestige.

1. Socio-economic stratification

The profound economic and social change of the last 50 years has led to the emergence of socio-economic stratification as a framework for social interaction that cross-cuts lineage ties. It is possible to discern the formation of different social groups based on economic and socio-cultural characteristics. For the purposes of this study I have identified four broad categories of people who have unequal access to resources, as well as great differences in education, employment status, and cultural values.

These categories are: a small elite of very wealthy, politically influential individuals and families; a group of wealthy farmers with early school attendance and long experience of off-farm employment; young employed men and women with a high level of education and well-paid jobs; farmers with little education and access only to unqualified employment. These do not form discrete categories; it is not uncommon to find farming families with one or two children who have qualified employment. The elite and the wealthy peasants can afford to educate all their children and it is among them that some form of rural "middle class" is evolving.

The tentative nature of this scheme must be stressed. It is still not possible to single out individuals as members of easily definable strata. Economic and social stratification based on education and employment did not emerge until the present generation of 20-30 year-old men and women. Although they are children of farmers with little education, they themselves earn a steady income, buy land and invest in businesses. Their life-style is different from that of their parents', and they participate in Western culture, live in modern housing, speak English and socialize with non-Gusii friends.

The analysis of socio-economic differentiation is further complicated by the existence of sexual stratification. With the exception of women who have qualified employment, it is only men who control resources in their own

right. Men also have a higher level of education and a knowledge of how to act in modern European institutions. Therefore, the emerging middle class includes members who have direct control over resources and members who have indirect access to resources in their roles as wives. In contrast, among the poor farmers women are often excluded from access to resources through marriage, and men appropriate most of the income earned by women's labor.

I shall delineate the following rough categories of socio-economic strata:

The elite is most easily defined. The adult members are the second or third generation of families that have high levels of education, qualified and often highly-paid employment, and are confessing Christians. Fathers and possibly the grandfathers of those members who are 20-30 years old today had school educations, and were literate, early Christians, who worked as clerks, teachers, and pastors during the colonial era. In contrast to many of the chiefs of the 1920s and 1930s who followed the traditional pattern of big men and acquired many wives, these men had only one or two wives. They obtained land and invested in their sons' educations and businesses.

A majority of the elite lives in the settlement schemes in the eastern part of the district, apart from their natal clans and the rest of the Gusii population. They own not only land and large tea plantations, but also hotels, shops, transport companies and shares in nation-wide businesses. In addition, they occupy positions on the boards of cooperatives and para-statal enterprises. In addition, members of the elite have large tracts of land and numerous business investments. Some are also involved in national and local politics.

The young members of the elite marry within this strata frequently enough so that it constitutes a nearly endogamous group. The young second and third generation members of the elite have few or no close patrilateral relatives who do not belong to their social group.

These elite families are sometimes referred to as "known families", "famous families" or "noble families". One informant characterized such families as being:

> ...like European noble families. They are educated, mind their own affairs and are not involved in crimes. They are reasonable people, they have discipline in their homes, and are economically well off. Noble families are those with a good reputation, they are generous and when you go there they give you food, respect and advice. Some people are just rich, they do not care where their money comes from, they do not care about visitors.

This informant emphasized that the known families are not only wealthy, but that they also fulfil certain traditional expectations about powerful men and their families. The elite are expected to be generous with food and "advice". Like big men, they are expected to adjudicate disputes. I have little evidence that this really takes place, but that the giving of "advice" is expected of wealthy persons of good repute demonstrates the continuity of this traditional value. Another outstanding trait is excercising discpline in the home, "being well-organized", as some Gusii put it. A well-organized family is one in which the father's authority is respected and no overt family quarrels exist. It is also

one in which, due to the authority of the father, wealth is generated by hard work, and the children obtain an education so that they in turn can acquire wealth.

Although the elite stands out as a well defined social and economic category, the rest of the Gusii population is more difficult to classify. As Bager (1980) and Lanting (1977) have shown, land is not concentrated in the hands of a few: It is fairly equally distributed among men. Monetary income from business and employment is a better indicator of economic stratification (see Castro, Håkansson & Brokensha 1981, for a discussion of economic indicators).

I have singled out those young men and women who have at least secondary school education earn salaries from steady employment in such occupations as nursing, accountancy, secretarial work, teaching, and administration. These employed stand out as a distinct group with respect to the marriage practices and the mode of bridewealth payments they follow.

These young, employed Gusii contribute money to their parents for such things as house building, clothes, and furniture. They are also responsible for paying their younger brothers' and sisters' school fees. An employed son or daughter is an asset to the family as a whole. Those poor families which have been able to raise school fees to allow at least one child to obtain a higher level of education may then have an employed child whose earnings will enable many siblings to reach a higher economic status through schooling.

Those with qualified employment, i.e., employment which demands at least a high school education, stand out from the farming community in a number of ways. They speak good English, read English language newspapers, and know how to deal with the national administration. They may be employed in the district or in some urban center and thus have friends from other ethnic groups who share their values and interests. They seek marriage partners with similar educational backgrounds and employment. Their good knowledge of English enables them to partake of information and discuss topics alien to their farming age-mates who have a lower level of education. They view themselves as belonging to a national, Westernized elite, rather than to Gusii society in particular.

The young employed are often provided with modern staff-housing with gas and running water when they work away from their parents' farms in other parts of the district or Kenya. At home, men may have a piece of land that they allow their brothers to farm, or that they hire laborers to cultivate. Often they manage to buy land in other parts of the district or outside it. Although emotionally attached to their home areas, they are also ambivalent towards their relatives, whom they regard as "primitive" and uneducated. Furthermore, their peasant relatives' demands for gifts of money are seen as a drain on their incomes. I have several employed friends who, when visiting their parents, deliberately arrive late at night or early in the morning in order to avoid being seen by neighbors.

The farmers can be divided into two categories: poor and wealthy. There is a tendency for wealthy farmers to have more land than the average holding.

Fifty to sixty year old men often have or have had employment as, e.g., teachers, agricultural officers or clerks, which enabled them to buy land and to invest in businesses and in their childrens' educations. In their studies, Lanting (1977) and Bager (1980:19, 38) found that there is a tendency for members of families with highly productive, large farms to also have well-paying jobs as well as more business income than members of smaller farms. The income is in turn invested in childrens' education. Therefore, the young employed are more likely to come from wealthy than from poor peasant families.

Middle-aged, wealthy farmers also have "semi-permanent" houses with iron roofs, radios, Western-style furniture, and possibly an old car. They also keep exotic cattle. Their businesses include butcheries, small shops, maize mills and small restaurants. Agriculture includes larger areas of cash crops on their larger farms.

Although Bager (1980) found a certain correlation between farm size and monetary income, he concluded that land is not a good indicator of economic stratification. Many of the large farms were inhabited by large polygynous families, and their *per capita* income was not much higher than that found on the smaller farms, which were cultivated by smaller families. The income of peasants is not dependent on the size of their farm holdings. Large farms are not necessarily more productive than small ones, whose owners may use more efficient production techniques. The large farms may be divided into those cultivated by old, inefficient peasants living in traditional, polygynous family forms, and those owned by wealthy peasants whose farms have higher productivity and who have smaller families. Furthermore, a large part of the family income is dependent on employment and business earnings, making farm size less important as a criterion for stratification (Bager 1980:53).

Table 4. Income differentiation in Mwogeto sublocation. Gross income refers to total income, including monetary value of subsistence production. The sample is divided into groups based on farm size. Income is in Kenya shillings. Source: Adapted after Bager (1980).

Land size (ha)	0 – 1.0	1.1 – 4.0	> 4.0
Number of households	23	52	14
Income from cash crops	2,608	5,734	9,223
Non-agricultural income	1,800	2,167	1,669
Gross income	5,322	10,060	14,876
Per capita income (including subsistence)	632	822	510

Bager was able to use monetary income as an indicator of economic stratification (see Tables 4 & 5). The Tables indicate a correlation between qualified employment income, agricultural cash income, per capita income and expenditure on school fees. Those wealthy peasants who have large

farms usually bought or claimed it during the colonial period in the less densely settled areas of the district. Some men had few brothers and therefore inherited much land.

The dividing line between poor and wealthy farmers is around 10,000 – 15,000 shs income per family and year. Mean expenditure on school fees is one significant criterion to distinguish the prosperous from the poor farmers. Those who are in a position to spend much on their childrens' education will see their descendants employed and able to buy land. Children whose parents cannot afford to pay their school fees will experience increased poverty: sons' inherited plots will be too small to support them and their families. At the same time, they will not be able to buy land because of low incomes.

Table 5. Economic stratification in Mwogeto sublocation based on monetary incomes. Gross income includes monetary value of subsistence production. Source: Adapted after Bager (1980).

Gross income (Kshs)	0 – 5,000	5 – 15,000	> 15,000
Number of households	18	60	11
Agricultural cash income	1,200	4,627	7,925
Income from qualified employment	0	1,542	4,471
Other incomes	1,152	1,799	3,861
Net income per capita	378	760	1,549
School fees expenditure per household	461	1,808	4,390

Poor male farmers have less land, and their off-farm income comes from unqualified jobs as tea pickers, agricultural laborers, watchmen, and masons. These farmers also have few business investments. Houses usually have mud walls and a thatched roof. Their cattle are of the Zebu variety. They generally cannot afford to send their children to secondary school. The only significant cash contributions that poor farmers are likely to receive are brideprices for their daughters, which are mostly used to pay school fees.

Although the poor peasants are not able to subsist on their farms they do not yet form a rural semi-proletariat whose labor is exploited by the wealthy peasants (Bager 1980). But, especially among the women, the number of landless is growing, and they may in the future form a source of labor for landed families. The farms are becoming smaller and smaller and the land market is very limited. This may contribute to the propensity of Gusii peasants to invest outside the agricultural sector. In fact, most of the surplus cash available is invested in school fees, as is bridewealth.

2. The Church

Church members form their own networks of assistance and support, often regardless of lineage affiliation. Members of a congregation sometimes prefer the company and cooperation of one another, rather than that of close

relatives who are not active in the church. The reasons often stated for not associating with non-Christians, are that they use foul language and are drunkards.

Most Gusii today claim to be adherents of some Christian church. The majority are not frequent churchgoers, but few would admit to not being a Christian. Traditional religious practices still occur, most notably the sacrifice of goats at funerals. Neglecting to sacrifice is often mentioned by diviners (*abarogoli*) as the reason for misfortune. Although discouraged by the churches, visits to diviners are fairly common.

A large number of people are active churchgoers and contribute to the weekly collection. Although Gusii churches are always overflowing during the services, only a minority of Gusii follow the strict doctrines preached by some of the denominations that prohibit smoking, drinking, polygyny and dancing.

There are four major Christian denominations in Kisii district: the Roman Catholics (the largest), the Seventh Day Adventists (abbr. SDA), the Lutherans, and the Pentecostal Assemblies of God (abbr. PAG). These churches run a number of schools and clinics and are involved in various development projects, e.g., adult education and tree planting.

The second largest denomination is SDA, established by American missionaries at Nyanchwa hill near Kisii Town in 1913. Active SDA members are oriented towards European family ideals and practice a form of Protestant ethic. The organization is wealthy, and the main church is solidly built and spacious. Many of the wealthiest families in the district are members, and one pastor boasted that three-quarters of all businesses in Gusii Land are owned by members of the church[2].

The church personnel consists of pastors and ministers and a number of lay persons who are responsible for such tasks as preaching and organizing church activities. In every parish there is a panel of church elders or, as they are called in the SDA church, deacons and deaconesses. These are responsible for the collection of tithes and contributions, keeping the church and its equipment in order and organizing work groups.

Within the congregation, church elders also act as arbitrators in disputes between members and give advice about individual and family relationships. They act as agents for the church's ideology and work to keep people in line with the behavioral ideals. Women are given positions of responsibility and influence as church elders and in the different work groups in the congregation. Church activities also provide opportunities for social interaction and economic assistance that were formerly found in the now defunct neighborhood work groups. In addition, church ideology condemns polygyny and wife beating, stresses male responsibility for the family, and recognizes women as individuals with a value often denied them in everyday life.

Churches are involved in a number of activities, and church organization is complex. The various denominations constitute social groups with specific ideologies and activities. Their members put pressure on each other to conform to the specific ideals and norms of behavior. The churches also have

work groups of women who undertake paid agricultural labor, or are involved in business activities to raise money. A certain amount of social welfare is also practiced, and poor families are assisted with school fees, clothing and food. Choirs are popular, and many make tape recordings, which are sold. In addition to volunteers churches hire members of their congregations as teachers, nurses, nurses' aides, masons, watchmen, cooks, gardeners, carpenters and tailors.

Churches in Kisii district stress parental authority and filial obedience. The agreement of the parents to a couple's marriage plans is deemed to be more important than their own desires. One PAG pastor explained: "The church follows traditional ways. A go-between should come from the groom to talk with the woman's parents, and if they accept there will be a traditional meeting between the groom and his relatives and the bride and her's" If the parents agree to the marriage, bridewealth negotiations and payments must take place before the wedding may occur.

Elopement is regarded as a sin. It is a form of disobedience to one's parents and a "theft", which leads to disapproval by church members. A pastor or preacher will try to convince the man to pay bridewealth or the couple to terminate their cohabitation. Elopement also leads to exclusion from the sacraments. Those who work for the church in some capacity may also lose their jobs if they elope.

Although the church still expects the couple to wed formally, once bridewealth is paid they are accepted as full members of the Christian community since they have obeyed their parents.

Although only a minority of the Gusii are active, regular churchgoers, the effect on those who are is strong. Many young men and women have parents who are active in some capacity in a church and whose standing depends on how well their families follow church ideals. Friends and close relatives who are members of the congregation, add to the social pressure to conform.

The churches provide a social field that is an alternative to lineage based social organization. They combine the traditional values of parental authority, diligence, and marriage, with the new values of monogamy, abstinence from alcohol, and cooperation over lineage boundaries. The churches enable women to attain community recognition outside motherhood, constitute a means for men and women to obtain influence over other people by becoming church elders, provide ideological support to parents, employment, and the opportunity for prestigious display by gift giving.

3. The modern legal apparatus

The colonial system of native tribunal courts was abolished in 1967 and replaced with a court system served by district magistrates. At the lower judicial level, the state-sponsored judicial organization consists of chiefs and male elders' councils under the chairship of a assistant chief. These positions are always filled by men.

The court system in the district includes the Superior Court in Kisii Town and a number of smaller courts in the countryside which magistrates visit on certain weekdays to hear cases. The new system is completely different from the old system using Western court procedure with a judge, prosecutors and lawyers, which is expensive and entails prolonged adjudication compared to the tribunals. Hence, a number of factors contribute to make these new courts much less accessible to the people than the colonial courts were. Furthermore, the quality of legal treatment, as well as its comprehensibility for the average Gusii, has diminished. The magistrates are often non-Gusii, and have only rudimentary knowledge of customary law, even though they are supposed to deliver judgements in accordance with it. This contrasts to the tribunal courts which were presided over by a number of Gusii elders with knowledge of custom.

Since 1965, the Kenyan constitution, in opposition to customary law, regards every woman over the age of 16 years as an independent person with full personal freedom. Hence, in the eyes of the court, adult women are not under their husbands' or fathers' guardianship and, therefore, cannot be forced into marriage. This also has implications for the emancipation of women. National law clearly recognizes women as property holders. Those employed women who buy land and register it in their own names have secure tenure. With the exception of this very small minority, however, land and other possesions are still exclusively under male ownership.

In divorce and child custody cases, the courts are required to pass judgement according to customary law if the parties involved have married with bridewealth only and not according to the Kenya Marriage Act. However, where customary law either directly contravenes a written law or where it is "repugnant to justice and morality", the judge is free to supersede custom.

The so-called repugnancy clause is frequently used by judges in divorce and child custody cases to override customary law. In the following case heard by Kisii Court, the judge decided that the biological father had superior rights in his children over the jural, bridewealth-paying father.

> Is it just and morally right to award custody to Ondari [the jural father] although he has not sired them? It is morally wrong in the view of the fact that the same children were not sired by Ondari but by Monari [the woman's lover] who is ready to marry Emelda [the children's mother], to award the children to Ondari. I am of the opinion that it would be fair and in the interest of the children that they be in custody of their mother who will soon be formally married to Monari.

As can be seen from the figures in Tables 6 & 7, very few cases of divorce are ever taken to national courts. Women most often take the initiative in such divorce cases. After a number of years, the cruelty to which women may be subjected in the form of beatings, verbal abuse, and compulsion to sleep outside the house, becomes so intolerable that their parents or brothers agree to refund the bridewealth. But such a refund is not likely to take place until her guardians have found another man who is willing to pay bridewealth for her.

Table 6. Number of court cases involving divorce and custody of children filed in Kisii court during 1979-1980.

Number of cases filed	19
No. of cases judged	6
Petitioner:	
Wife	13
Husband	6

The peripheral importance of the national courts to marriage and bride-wealth makes it safe to regard them more as a potential interference with people's lives than a prominent factor influencing the marriage system.

Usually, disputes are arbitrated, and compensations and punishment are executed at the local level. Disputes within the family, involving wives and children, are normally settled by the husband, possibly with the help of his brother, father, or another close relative. Disputes involving two families, such as marital discord and claims for divorce, are first heard by elders from the families involved. If they cannot solve the problem, it is taken to the *etureti* elders.

Table 7. Major reasons for divorce put forward by petitioners.

	Petitioner	
Reason	Wife	Husband
Adultery		2
Desertion		2
Cruelty and beating	6	
Neglect	4	
Husband's death	1	
Desire another spouse	2	

The *etureti* elders are a council of men who are expected to settle local disputes and petty crimes. These councils were formed in the 1940s through the efforts of the colonial administration, in order to relieve the pressure on the tribunal courts. The term *etureti* was taken from the pre-colonial concept of the local male elders' councils, which, under the leadership of a big man, an *etureti* elder, were the arbitrators of judicial matters outside the family. These elders were not very successful because of their eminent bribability and were generally distrusted by the population .

In modern Gusii Land the *etureti* elders constitute the lowest level of the official, judicial apparatus. About 17-18 elders are selected by the chief in each sublocation, and they serve directly under the assistant chief. Once a week, a number of them are supposed to meet at a specific place to hold *baraza* (Swahili: meeting) under the chairship of the assistant chief. *Etureti* elders are not necessarily very old. Those men selected have a reputation as knowledgeable in customary law and are known to be good at arbitration.

They should be regarded as authoritative in their own homes, and should not be heavy drinkers or violent. The position is not very prestigeful, and those chosen are usually poor farmers.

People in dispute and those who have complaints may make an appointment with the assistant chief or with an elder to have their problems discussed at the *baraza*, or they may come to the *baraza* and set a date for a hearing.

The kind of matters that are dealt with are the following: boundary disputes, destruction of crops by livestock, beatings and abuse between members of the local community, destruction of property, petty theft, marriage disputes, and disagreement over interpersonal exchanges of goods or money. Although the council settles marital disputes, it does not handle divorces in which only one party wants a dissolution of the union. Since the *etureti* elders are not empowered to dissolve a marriage against the will of one of the parties, such cases have to be referred to the courts. Only if the parties have agreed to a divorce will they act as witnesses to the refund of bridewealth, which takes place at the *baraza*.

After hearing the parties in a dispute and deliberating the elders will recommend a solution involving, e.g., the compensation of one party by another for the destruction of property or for abuse. In the case of marital discord or border disputes they will try to suggest a solution acceptable to both parties, e.g., in the latter case, a survey of the fields to establish the boundaries.

These male elders' councils cannot reach conclusions without the presence of the assistant chief, who rarely attends every meeting. In one of my study areas he was generally absent three weeks out of four. Furthermore, the elders accept bribes and will give judgement in favor of the highest bidder. They are not paid by the government but receive a small fee when deciding cases, about 50 shs from each of the parties involved.

The next level of judicial power is the chief, who is in charge of the local administration's police force, and who may intervene in the prosecution of serious crimes like robbery and murder. The chief is also called upon if the assistant chief and the *etureti* elders cannot settle a case. This commonly happens in land disputes and in divorce cases, where the chief may as a last resort, try to coerce the parties to agree to a solution. If no agreement is reached, the chief may, at the request of at least one of the parties, refer the case to court.

Besides their formal authority as government agents, assistant chiefs and chiefs are very powerful locally and are therefore asked to intervene in all kinds of disputes. Where customary law is applicable, chiefs try to arrive at solutions that are based on it. This is especially evident with respect to land cases, marital disputes and inheritance.

Conclusion

New social groups not based on segmentary lineage principles have emerged at the same time as traditional social categories have diminished in importance. Socio-economic stratification and heterogeneity are manifestations of social groups based on economic, educational, religious, and occupational status. Thus, people in different social groups experience different constraints and opportunities, which affect both the form of their bridewealth transactions and the norms and values to which they adhere.

It is possible to distinguish at least two important socio-economic environments, which are important for the understanding of current marriage patterns and forms of bridewealth payment. First, the majority of the Gusii, who are poor farmers with little education, face a situation of severe land shortage. Their only way of gaining future economic security is in jobs and business outside the farming sector. The men are still members of localised lineages, but these provide no framework for social action outside the group of brothers. Instead, families try to guard their own property and exclude neighbors by planting thick, thorny hedges. Parental authority has been undermined, and sons demarcate their portion of the family's land as soon as they marry.

The segmentary lineage system has, so to speak, frozen on the ground. No more territorial expansion is possible, and the principles for property transmission have caused division of land into smaller and smaller parcels. The higher order clan segments have ceased to be operational. Today competition and conflict occur between closely related families, notably those of half-brothers and their wives. Due to the absence of the economic and social reasons that formerly activated lineages as corporate groups, interaction with more distant members of the same lineage or segment is low.

Instead, such local organizations as churches, the KANU party, women's groups and cooperatives provide the framework for interaction. Although these organizations sometimes give opportunities for action in relation to segmentary principles, they also provide completely new criteria for social and economic activity.

Although it has few practical referents, the ideology of segmentation still exists among the peasants. It owes much of its persistence to the continued possibilities for arranging family organization according to traditional concepts of the house-property complex and polygyny.

The rapid population growth and the diminishing land base are currently making traditional family organization untenable, and are likely to have strong effects on the marriage system and social organization.

Economic change, education and the political and administrative system have produced socio-economic stratification. The wealthy farmers and those in qualified employment relate to social and economic environments that are radically different from those of their poorer kin. The elite have moved from their lineage's territory and they have no stake in lineage property, and no reason to enter into marriage in order to create a descending lineage.

Notes

[1] These generalizations are based on answers to survey questions circulated in both study communities. The data which have not yet been fully processed also show that monetary assistance is concentrated to the group of full siblings. The type of regular assistance which included the widest categories of kin within the lineage was labor, which is also given to patrilateral first cousins. Assistance to matrilateral and affinal kin is rare.

[2] The strong Protestant ethic and stress on diligence fit well with the members' economic acumen. The official membership figure is 58,000, i.e., persons who are baptised, attend church at least twice a month and give tithes. Tithes are required of all members and support the church activities as well as the pastors' salaries. The pastors are often wealthy and engage in business besides preaching and other church work. For a similar relationship between religious denomination, Protestant ethic and socio-economic groups, see Long (1968)

Chapter 8

Bridewealth and the Family Today

Introduction

Despite altered social and economic conditions bridewealth remains a central institution of Gusii society. This chapter explores the formal and jural characteristics of bridewealth in present-day Gusii society. I examine the current pattern of social interaction in relation to marriage with special reference to legal rights and social rules affected by bridewealth.

Marriage procedure

Only a minority of marriages are today preceded by the transfer of bridewealth before the onset of cohabitation. But when it occurs, bridewealth payment is often accompanied by some form of ceremony, either Christian or traditional. In the case of an eloped couple the payment of bridewealth is carried out without any ceremony. Sometimes eloped Christian couples may have a small church wedding after the bridewealth has been transferred. When a couple establishes a formal, regular union with the payment of bridewealth before cohabitation, a number of events take place in a specific order.

Church marriages are rare among the poor peasants and mostly take place among employed men and women. The particulars of church marriage will be treated below in chapter 11.

Whether initiated by bridewealth payment or elopement, most unions today are established upon the initiative of the couple themselves. Men and women meet at the market or through mutual friends and relatives. If the man wants to pay bridewealth instead of eloping, he informs his father that he is interested in marrying a particular woman. His father then elects a go-between. This might be a maternal relative, or even an unrelated friend who is married to a woman from the same clan or lineage as the prospective bride. Although a father has little influence on his son's choice of bride, he conducts the formal marriage procedure and examines the character of the woman's family, especially with respect to witchcraft. Attention is also paid to whether members of the prospective bride's family are known to be lazy or hardworking, whether or not they are drunkards, whether her father has firm control of

his family, and whether the daughters are respectful and obedient. If he judges them deficient in some of these characteristics, the father will advise his son not to marry that particular woman. However, since sons often pay their own bridewealth, nowadays fathers have little influence over their choice.

The father of the prospective bridegroom sets a date for the *ekeerano*. This is a meeting which the bridegroom and some of the male age-mates from his clan attend at the woman's home. The meeting is a formal occasion at which the bride and her kin are supposed to become acquainted with the bridegroom. After its completion the date for bridewealth negotiations is set. The groom's father sends a written message to the bride's father to come to his home on a specific date.

The bride's father and four or five male elders (father's brothers, father's half-brothers and his classificatory brothers) arrive for the negotiations at the bridegroom's home. They are served drinks: If the home is strongly Christian, these will be tea, coca cola, or other soft drinks. Otherwise they are served beer brewed from finger millet. While the beer is drunk the party engages in informal conversation. After a couple of hours the parties feel ready for serious conversation. The male elders gather in a special room to start the negotiations. The groom is not present since a young man is not qualified to conduct bridewealth negotiations on his own behalf unless marrying a second time. His father (or, if his father is dead, one of his father's brothers) and his age-mates will act for him. During the negotiations, the fathers of the bride and groom stay in the background and leave most of the discussion to the other male elders. Food will not be served until an agreement on the amount of bridewealth to be paid has been reached.

Negotiations may continue throughout the night, with elders dozing off intermittently. The parties always start with widely disparate offers. For example, the bridegroom's side may start by offering two cows, with the bride's side demanding 12. The final settlement will, however, conform to the current rate (which is a range rather than an exact number of animals). Nowadays, in addition to the animals, a bridewealth should also include a big metal cooking pot for the bride's mother and a coat for the father. The latter replaces the bull of apron, which was one of the gifts offered earlier this century. If the young couple have not eloped before the negotiations, the haggling will be long and drawn-out. If, as is most common nowadays, the couple have eloped, the bride's side is faced with the *fait accompli* of cohabitation and must settle for whatever the bridegroom's side has to offer. The bridewealth finally agreed upon is not transferred in total. Often one beast or a sum of money is left as a debt, which these days is usually never paid.

On the morning after the negotiations the groom's father and his party take all but one of the cattle. The animals are taken to the wife-givers' home on foot so that everyone can see that bridewealth has been given and received.

The next step, after conclusion of bridewealth negotiations, is to arrange for the traditional marriage ceremony, called *egekobo*, meaning escort. This only occurs if the couple has not eloped. The term refers to the fact that the

bride is escorted by young men and women back and forth between her own and her husband's homesteads. The *egekobo* started to replace *enyangi* as a marriage ritual during the early 1950s. It is much simpler than the latter, and most of the ritual involving the bride's separation from her natal family and subsequent merging into that of her husband's has disappeared. The ceremonies involving ritual separation and merging, centering on the house plan and cattle pen, are omitted. Also omitted are the warlike symbolism, the festivities, the symbolic ornaments of *ebetinge*, and the goat skin apron (for details see chapter 3). *Egekobo* retains a number of food transfers which are probably connected with the transfer of fertility to the husband's family.

A few days after the negotiations, the groom, some of his real or classificatory brothers, his father, and two or three male elders (real and classificatory brothers of the father) walk to the bride's home where they will spend the night. They may arrive with one of the remaining beasts and the gift of a cooking pot for the bride's mother. The old men sit, drink, and talk with their peers from the bride's home. The young men go to a different house and meet the bride and her sisters. The night is spent dancing.

In the early afternoon of the following day, the bride leaves her natal home, accompanied by other girls and women (*abakobi*, i.e., real and classificatory sisters), and goes to the groom's home where they dance and stay for the night. The next day the bride and her party are escorted back home by young men and women from the groom's family. The following morning, these women and girls return to the groom's home, this time bearing porridge made of finger millet, and goat meat. The groom should not eat any of this food. The bride and her party go to the groom's mother's house and stay there for two days, after which the bride again returns to her natal home, where she stays for 15- 20 days. Then, accompanied by her mother and other women from her natal home, she brings porridge, beer, and the left foreleg of a goat to her husband's home. This food is meant for the husband. The goat first taken by the bride to her new home, which is consumed only by her husband's mother and sisters, is called *embori ya obokima* (the goat of the porridge). The second goat, eaten by her husband, is called *embori ya omosieke* (goat of the wife).

The reasons for the changes in the marriage ritual are difficult to ascertain. I can only offer a plausible hypothesis. During the early 1900s the Gusii clans lived close together in an area around Kisii Town. In addition Kitutu subdivision contained a number of splinter lineages attached, as clients, to the ruling clan. Thus, the ideal of territorial separation was often not achieved. Since affines were spatially close, but were supposed to be socially distant, the marriage ritual achieved the separation of a woman from her clan and her incorporation into another. Social separation, which was threatened by spatial proximity, was achieved through ritual.

After the establishment of the colonial administration the Gusii clans started to spread southwards, leaving the densely populated core around Kisii Town. Those subdivisions that migrated to the unsettled areas were also the first to abandon the *enyangi* ritual. Among them the ritual appears to have

begun to disappear already before the 1940s. The clans remaining in the still densely populated core retained the ritual. The Kitutu clan, with foreign lineage segments interspersed with lineages of the ruling clan, continued with the *enyangi*, as did the North Mugirango and Nyaribari.

The status of husband and father

1. The husband's rights in children

Although a father has the ultimate rights against any other person to supervise and control his sons' or daughters' activities, such rights only give a partial picture of the relationship between a father and his children that is created by bridewealth transfer. A man knows, as does the community, that according to the cultural definition of fatherhood, his biological children can never be his unless he pays bridewealth. To die childless is considered a horrible fate by the Gusii. Rights in children have an almost mystical aspect. There is a belief that if a man continues to elope with women, but never marries, he will become a *ribaki* or a *riochi*, a wanderer, a vagrant. It is believed that he will not be able to win a woman because everyone knows of his behavior. If, however, he pays bridewealth for a woman and has sons with her, Gusii say that "wherever he is when he dies, he will at least not die naked".

2. Rights and authority over children

Nowadays, the relationship of authority between fathers and their children, especially their sons, is complicated. The old ideals and norms, giving the father strong control over his sons, are still considered desirable by the older generations. In spite of these long held ideals, old informants admit that children, and particularly sons, are very disobedient and flaunt the rules of respect. This is often lamented, as, e.g.: "These days the young people are the decision makers. The young men these days do things by force. Education is to blame. The young men walk boldly; they get educated and know they are independent. One son disobeys me and tries to fight me physically. I have taken him to the chief, but he disobeys him also".

Although these quotations sound like complaints common to old people the world over, they contain much truth. Fathers' authority over their sons has declined drastically since the 1950s. Unmarried adult sons often flagrantly oppose their fathers. The sons' earnings make them independent of their fathers, and the fathers are frequently dependent on their sons for money. Many old men and women complained that, despite their explicit orders, their sons had eloped and had not paid bridewealth.

Young men who have gone to secondary school often regard their parents as uneducated and their attitudes as outdated. The importance of formal marriage has declined because education, work, and earning money are sources of wealth and respect, all of which a young man can attain without being married.

During the time of the LeVines' first study (1956), the father's authority over his unmarried sons was such that he was able to claim a substantial part of the sons' wages as gifts. He could also control his married sons' family relationships, e.g., in matters concerning his sons' and his sons' children's economic activities (R. LeVine & B. LeVine 1966:27f).

Before legal marriage a young man is called *omomura* (pl. *abamura*), an unmarried man. As such he is formally under the authority of his father who, according to the old ideals, may order him to do tasks in the home and who may claim part of his earned income. *Abamura* are not entitled to voice opinions in community matters and are considered irresponsible persons. Marriage makes a young man responsible in the eyes of his fellows and earns him respect from his father and the community. As a result he may now enter community affairs, e.g., partake in legal proceedings, and take up positions in churches or cooperatives. He becomes an *omosacha*, a married man, and is allowed to walk with a cane (*ebegwacho*).

Today, as soon as a son is married he is an independent person over whom a father has no sanctioned rights. A married son has his own property and the father may not appropriate any income or supervise or decide his son's actions. There is also a tendency for this independence to develop as soon as the son has become old enough to marry and to defend himself verbally, or to physically threaten his father. Although fathers formally retain their authority over unmarried adult sons they are, in practice, not able to enforce such rights and have to resort to persuasion rather than command.

Furthermore, the old right to supervise and arrange a son's first marriage has disappeared completely. Sons and daughters select their own spouses and initiate their own marriages. The only vestige of this authority left is the father's right to receive and give bridewealth for his children. Although nowadays most sons pay bridewealth from their own resources, they may not conduct their own bridewealth negotiations. These are carried out by the father in order to maintain the fiction of the father giving and receiving bridewealth. A father may decide how much bridewealth his son will pay, up to the limit of his son's resources.

A father also has the right to decide about his daughters' bridewealths. He is entitled to use the bridewealth from the first daughter of each of his wives for his own purposes. The use of bridewealth obtained for other daughters is circumscribed by the house-property rules described in chapters two and three. He has no right to spend these bridewealths on personal consumption, but may allocate them to investments which he considers most beneficial for the sons of the house receiving such bridewealth.

Although a father may not interfere in a married son's economic and domestic affairs, there is one area in which fathers still try to exert influence. In the words of some informants:

I will only interfere if serious problems occur and, in any case, I should be called in the disputes. Planning and related affairs should be left to the sons.
Or,
When a son has married he is counted as independent and hence should, as much as

possible, try to take care of his own affairs. The father will only intervene in extreme cases such as the expulsion of a wife or terrible diseases or cases of bankruptcy.

A married son should confer with his father before deciding to expel a wife. Although, ultimately, a son may disregard his father and send a wife away, this is done at the cost of strained relations with his father. Domestic quarrels of a serious nature are considered legitimate problems for a father's intervention, especially if they involve the possibility of expulsion of a wife. As long as the father is alive he is responsible for the maintenance of the bridewealth contract. To maintain a good relationship with, and uphold respect towards his father, a son must listen to his advice in such matters. If the son finally goes against his father's wishes and expels a wife, he may encounter misfortune for his disobedience. This is not only a concern between fathers and sons, but also involves brothers who, when the father is dead, also should be involved when there is serious domestic strife. To decide single-handedly on such an important matter as the expulsion of a wife is considered unsociable and an act against the ideology of brothers' common interests.

Control over daughters is maintained while the daughters are still at their parents' home. Female submission to male authority is strong but in one respect parents' ability to control daughters has lapsed. Girls frequently elope against their parents' will and, in most instances, neither father nor mother are able to stop elopements.

The decline of paternal authority over sons depends on several factors. First, fathers' control over the wealth that is essential to their sons' economic and social advancement has diminished. While fathers still control bridewealth allocation, elopement has made such control of little importance. Elopement deprives fathers of bridewealth cattle, and any bridewealth that is paid is often used by fathers for other purposes than for their sons' marriages. Hence, withholding the cattle for a son's marriage as a disciplinary action for his misbehavior, is no longer important. Furthermore, sons do not need their father's contributions to bridewealth because they obtain their own cattle for marriage.

Second, the supernatural control formerly exercised by fathers over their children is waning in the face of Christianity, education, and declining beliefs in ancestor spirits. The father's curse, however, is still feared.

Third, males of the younger generation labor often earn more income than their fathers through wage labor, making the latter more dependent on their sons.

Fourth, education has led young men to regard their parents as "primitive" and ignorant. Sons no longer value their parents' advice, because Western knowledge is considered more useful than traditional values in attaining wealth. One very old man put this succinctly: "Young people don't show respect today because they have learned so many things and think the knowledge of the old is outdated. Also, they go to work as teachers and other things all day and when they come home at night, they don't have time for the old".

Fifth, in contrast to the situation 30 years ago, sons obtain their shares of the family land when they marry and form independent households.

3. Rights in a wife

The payment of bridewealth places a woman under the authority of her husband. A Gusii woman is a legal minor throughout her life and must be attached to a man. If she fails to obey commands or her husband feels she is negligent in her duties, or disrespectful towards his parents, she will elicit rebukes and possibly a beating.

If a husband feels that, despite punishment, his wife is not obeying his orders, he will send her to her parents. In such a case, the husband and his father will meet with the wife's father or brothers to discuss the problem, and the latter will admonish the woman, ordering her to behave in accordance with the husband's wishes. The wife-givers may also be forced to pay a goat as compensation for their daughter's misbehavior. If marital strife is not settled by the in-laws, other parties may become involved, such as *etureti* elders and chiefs and, more rarely, the courts. In this way, bridewealth payment provides a contract in which the husband is given certain socially sanctioned rights in a wife open to third party negotiation.

The wife's duties to her husband and the husband's right to punish her are socially sanctioned and approved as the correct order of things. Although peasant women agree to a great extent that men as husbands have the right to supervise the family, they often question how traditional male prerogatives are excercised. In the case of conflict, a difference of opinion often exists between men and women as to whether the wife is negligent or not. Women will often point to the fact that it is the husband's negligence and cruelty that are causing marital conflicts rather than the wife's refusal to obey orders.

A wife is supposed to perform a number of duties in the homestead. She must cook for her husband, their children and visitors. Cooking must be done regularly, and the family members must be well-fed. She must help her husband's parents with labor or food whenever they request. She must wash clothes, keep the house clean, and is responsible for the purchase of necessary household items and food. She is responsible for the childrens' upbringing and their well being.

In addition, a wife's movements are restricted. She may not make visits to relatives, neighbors, or friends without her husband's permission.

The wife also performs almost all of the agricultural labor. She must care for the livestock and see that they are tethered and given pasture each day. Agricultural labor undertaken by men usually concerns their cash crops. Apart from that, one seldom sees men working in the fields. Men with employment do not put much time into agriculture and those without off-farm occupation also leave most of the work to women.

According to the current male version of customary law and norms, husbands have full rights over any money earned by wives, whether from the sale of farm produce, brewing or casual labor. Although women may ques-

tion the way men appropriate their income, peasant women generally do not question their husbands' ultimate right to decide about the use of income earned by family members. The proportion of the farm income that the husband appropriates depends on a number of factors. Usually, a husband takes the proceeds from the most profitable source of income in the family. If he has cash crops, but no regular salary, he will take the income from those and leave income from surplus food crops sold at the market to the wife. This is the usual situation in most families in my study areas. If the family does not have any cash crops, the husband will take income from the sale of surplus food crops. Finally, if the husband has a regular salary, he often leaves the whole farm income for the wife to use. Although a few men do not take the income, they always demand an account of expenditures from the wife.

Ideally, when a wife has several children, some of whom have reached secondary school level, a husband should leave the whole income from cash crops to the wife for her family's expenditures. At this point of the family's developmental cycle the cost of children is high, especially if they attend secondary school. Some husbands are aware that there is very little, or nothing, left over after these costs are covered. However, many men use much of the total family income for drinking or other personal expenditures leaving the wife to care for the children as best she can.

4. Principles of male land rights

Land is held by men. They have absolute rights to the management and use of land given them by their fathers. Their right of alienation is, however, circumscribed. Land is still ultimately held by the local patrilineage. Ideally living men are the custodians of land received from the ancestors, which should be transferred to their descendants. A good example of this is that land that has already been divided is left registered as the property of a deceased father or grandfather.

The allocation of land can be described in terms of the developmental cycle of the family (where the principles of land tenure are to be found). A number of events may occasion formal allocations of land to family members. A married man with several wives will let his wives and children farm the holding, each wife cultivating individual plots that are temporarily allocated by the husband. At this stage land use and allocation are decided by the husband. His sons, however, have rights to land which will be realized when they marry. As soon as one of the sons marries he is entitled to receive his own plot of land, which he may manage independently from his father.

The timing of land division varies. Some husbands make a formal division between their wives before any of their sons are married while others wait until a son marries. In the latter case, the land is first divided as equally as possible between the wives. Such division is done by means of ropes, to measure the plots, and witnessed by local lineage elders such as the young man's father's brothers and/or patrilateral cousins. Once land has been divided between the wives, each son, including the newly married one, should be

given an approximately equal share of his mother's plot. The allocation of land to the newly married son is accompanied by a formal division among all the other sons, even though they are not married. Each wife will continue to cultivate her unmarried sons' land. In practice both customary rules and a number of situational factors affects land division making it less than equal. The youngest son may receive a larger share than his brothers since he is expected to take care of the mother, who will derive subsistence from his land. In the past the eldest son was also allocated a larger share than the rest of the brothers. In addition, faulty measurements may also affect the size of plots (Wilemski 1975:44f). Sites close to the road near market centers are particularly valuable because they can be used for shops and, hence, command higher prices than other land. Therefore a special division is often made to accommodate all wives' sons' access to such plots.

After division, the father will often retain a small plot, *emonga*, comprising one-half to one acre, on which he and one of his wives have planted coffee or tea. He uses the income from this plot for himself and leaves each wife to allocate the income from their own plots. He will then live permanently with the youngest wife, who cares for him in his old age.

Once the land has been formally divided between houses, and the sons' patrimonies have been recognized and witnessed by male elders, it is almost impossible for the husband to appropriate any land or change the division without his sons' approval.

If a husband dies before he has executed a division, the male elders, who are his brothers or first patrilateral male cousins, will arrange division soon after his death. When a husband dies the wives' power to manage the estate over which they are custodians becomes much greater than when he was alive. As long as the deceased man's sons are young and unmarried the allocation of plots for cultivation and the use of cash crop proceeds are largely in the hands of the mother, since no other males may assume the dead father's full authority.

Another event which may cause a man to execute a formal divison of family land is when he marries a new wife. Usually men cannot afford to marry second wives until a decade or two after the first marriage. A wife generally disapproves of her husband's acquisition of a second wife because the farm resources will thereby be divided, and the first wife's influence over her husband will be undermined. When a man has only one wife he is completely dependent on her for cooking, child care, farm labor, etc., and therefore less inclined to enter into conflicts with her lest she leave the homestead. With a second wife, he is in a much better position to dominate the first wife and expel her at will.

In the case of a man who has one wife and plans to marry a second, or at least wants to keep the option open, he arranges an early division of his land before his sons are old enough to protest. When such a division is made, the first wife's house's land is demarcated in the presence of male elders and the husband retains a portion as his personal land, *emonga*. For example, a six acre farm may be divided into four acres for the wife and two for the husband.

He cannot demand half because unless he announces his intention to acquire a second wife there is no justification for him to have so large a portion as his personal land. But, such a confession is likely to create prolonged conflict with his wife.

Some men do not do this, but cultivate the farm as a unit and then after 20 years or more of marriage, decide to take a second wife. This is likely to engender fierce opposition from the wife and her grown sons who feel deprived of their patrimony. Sons may threaten their father with physical violence if they feel that he is treating them or their mother unfairly. Of course, if they beat their father they run the risk that he may curse them.

In a monogamous family two types of land division can be made. Land may be divided among the sons, leaving a small piece as *emonga* for the man himself and his wife to cultivate. When he dies, his wife can continue to live on the piece as long as she is physically fit to work the land. When she dies or becomes too old to work, the *emonga* is divided between the sons.

Land division follows the principles of house bounded property. When land is divided between houses, the number of children each wife has is not taken into consideration. Ideally, each house should receive an equal share. This was explained by an *etureti* elder: "We do not consider the number of children because when a husband inherited from his father he did not consider the number of children in his house. Traditionally they have to consider that land should be divided to independent houses. They count houses rather than people". Thus land is divided in the same manner as cattle, which were given by a husband equally to each house, and the off-spring of which were supposed to be divided between brothers. In the end all sons would have received equal shares in bovine wealth.

In the past, division of land between wives was not equal if a man used his first daughter's bridewealth to obtain a second wife. The Gusii say that this second wife was counted as a son with respect to land division. The logic is that, since bridewealth came from a daughter of the first house the new wife could be counted as the wife of a non-existent son of that house as well as being the wife of the homestead head. Hence, when land was divided the second wife would receive less than the first wife's house because genealogically she is of a second generation house, on a par with the houses of other sons' wives. According to informants this way of dividing land is not practiced today, although where such marriages took place 10 or 20 years ago, many families have made this unequal division of land. For example, in the case of a man who divided land in 1979, half an acre was kept as his *emonga*, eight acres were allocated to the first wife, and three and a half acres to the second.

5. Intrafamilial conflicts over land

The land shortage causes frequent friction between family members. Each therefore demarcates his or her plot in order to protect it from infringement by other family members. Land is effectively separated from that of other houses or brothers and from the father by hedges and trees that mark

boundaries. Many cases of conflict in the *barazas* revolve around alleged violation of boundaries between a father and a son.

CASE 1

Father: My eldest son of my first wife removed my plough from my custody without my consent. He is married with the bridewealth I gave him and has children. I have also given them, the sons of the first wife, land which they have divided between themselves. I am currently staying with my second wife, the first is dead.

Elder: You have given him his piece of land. Then it is not in order for him to have come to your house and taken your plough.

Father: I went to him to ask for my plough and he wanted to fight me. I told his brothers to talk to him and I also brought some elders but he did not listen to anyone.

CASE 2

Father: I have come to report my son...to the assistant chief, for beating me. He found me cutting grass with a panga [a big knife]. He took the *panga* and beat me. He also killed my cat. The grass is on my *emonga* so it is mine.

Son: My father has removed the boundary hedge which the assistant chief and elders placed. Moreover he is lying about me beating him. He chased away the people who were cutting grass for my house. I told him not to do so. He chased me with a *panga*. I threw away my *panga* and held his shirt and told him that I did not want to beat him since there were people there. The grass is on our piece of land.

This man has two wives and has subdivided his land between them. After subdivision the son claimed that his father brought some other elders to change the boundary in order to obtain a bigger piece. The father said he planted trees, which the son has cut down, but the son claims the trees are his.

These cases illustrate the strong demarcations of property within the family and also the decline in paternal authority. Land has become scarce and conflicts over it at the family level result in the maintenance of strict divisions and boundaries.

6. Inheritance

Men's access to land is largely dependent on their patrimony, which they receive at marriage. A man receives land from his legal father, i.e., the man who paid bridewealth for his mother. If a boy's parents divorce and all bridewealth is returned, he may not claim land. If another man pays bridewealth for his mother he will obtain rights to land in that man's holdings. As will be shown below, when divorce takes place, the husband usually keeps the children and obtain a refund from which cattle for each child are deducted. Any subsequent sons borne by that mother will, however, have no rights to land from the mother's former husband. Such children will have rights only in the land of a man who subsequently marries her. If no man pays bridewealth for her, her sons will not have any patrimony anywhere. They cannot and will not obtain land from their maternal relatives.

Adult sons' sources of patrimony can also change according to the fortunes of their mother, who may be involved in a complicated series of divorces, separations, and cohabitations, and may have children with several men and with several bridewealth payments made and refunded.

Moraa's husband died and she was then subsequently divorced from her dead husband. The bridewealth was refunded and the husband's brother was given custody of the child, a girl. Moraa eloped with another man who never paid bridewealth for her. She had two sons with that man. These sons became adults. She then left her second man but left her sons there. She came back to the place of her former husband where she was given a small plot on which she lived. Her dead husband's brothers refused, however, to give her sons any land because they were born after her divorce. Moraa died but could not be buried since she had no legal husband. *Etureti* elders were called and suggested that the dead man's brothers should pay back the refunded bridewealth, thereby making Moraa their brother's legal wife again and her sons his legal issue so that the sons could inherit land. The brothers together paid bridewealth again on behalf of their dead brother for his former, deceased wife. They did, however, refuse to let the sons have land, as a result of which the case was brought to the chief who told the brothers to divide the land for the sons so that "their brother's family would stand, so that he would have a house". That is, so that their dead brother would have descendants and some means for these descendants to subsist. The two brothers divided their land so that one third was given to the sons.

This case eminently illustrates the importance of bridewealth as a legitimizing fact which allows sons to inherit land from their father's estate. This chief wanted the sons to obtain land from their former legal father's estate and there was no other recourse open to him than to make the dead man's brothers pay bridewealth for his dead wife.

Around 1967, Nerlove (1969:40) observed the emergence of the pattern of dividing land during the father's lifetime. I believe the reason for this change in family tenure, lies in a general reduction in the fathers' authority, and in a desire to minimize conflict among brothers and between sons and their father.

The status of wife

1. The concept of wife

Adult women are conceptualized as wives and have no formally accepted status as daughters or sisters with respect to kinship rights and obligations. Furthermore, a woman has no property which is considered hers (except clothes, adornments and inexpensive items such as pots). If she divorces her husband, under customary law she loses everything she has acquired through her work or as gifts. The same principle applies if she earns money through employment before marriage, so that if she buys furniture it must stay with her brothers or parents when she marries. She can only hold property in trust for males, i.e., for her husband and sons. As long as she remains married to a man, she can accumulate wealth which will be her sons' inheritance. To a certain degree she is free to make loans to, and exchange such property with co-wives and their sons, but only with her husband's consent.

The ideal woman, according to both men and older women, is expected to stay at her husband's place, and work hard. A good woman is thought to be stable, and should stay within the confines of her husband's farm and not leave to visit any relatives without his consent. It is only through marriage that she can achieve this ideal, and it is only through a husband that she can obtain land.

The opposite of a good woman is "a woman who moves from place to place", an *omokungi omotangatangi*. Such women are ostracized and regarded as harlots. Sexual promiscuity on the part of the woman is severely condemned and was earlier associated with magical dangers which would afflict both her husband and other men who slept with her. The culturally defined status of adult women as either wives, *abakungi*, or whores, *abatayayi*, and the legal structure denying women any formal ownership of property, are reflected in personality characteristics common to most Gusii women. S. Levine (1979:381) suggests that:

> The preference of these women for the appearance of passivity in routine interaction and domestic relationships was based in part on their recognition of the status of women in Gusii society, i.e., as satellites of their husbands and sons without the right to define their own interests separately or pursue them autonomously.

Women continuously stress the fact that when bridewealth is paid they cannot, as they express it, be put away. They will have secure access to land, a family which will care for them in old age, and legitimate status. As one informant with secondary school education remarked: "Bridewealth and marriage is the rubber stamp of a woman's legitimacy". Eloped women are not legitimate members of their present families, nor legitimate members of their natal families, and hence an unmarried Gusii woman has no culturally accepted identity.

When interviewing women, I asked them whether they thought the custom of bridewealth should continue or disappear, and why. The majority called for the preservation of bridewealth. Among the most common reasons given for its payment were:

> It gives a woman inward satisfaction, makes her a lady;
> Bridewealth is good because she feels that she is owned by the husband;
> A woman feels prestigious that she has been paid for;
> A woman feels proud and satisfied and gets confidence and feels part and parcel of that home.
> Or:
> When married people respect you as the wife of somebody, they do not talk much about you. When married, if you get children you feel you have completed the course as a married person. If you die before marriage you will be forgotten. If you are married and die you will be remembered; people will name children after you.

2. *Women as mothers*

Bridewealth also gives a woman prestige and self identity as a mother. Through marriage a woman will also be remembered. She will become the

focal point of a house and the mother of legitimate sons through whom she will be remembered as part of a segmentary lineage genealogy since descent segments are divided according to "houses" and descent through women.

It is also as mothers of sons that women can control property, and gain influence and prestige in the family. Without sons a woman cannot hold property and will face old age without economic support or respect (Håkansson 1985). Mothers often have a stronger relationship to their sons than the fathers have. When sons are adult they support their mother against their father and will beat him if they feel he mistreats her. Gusii children generally have strong feelings for their mothers and visit them often. This loyalty and support from sons is especially important for a mother since they will often stay with her on the farm and can work for her effectively in opposition to her husband and, in a polygynous homestead, the families of his other wives.

Although most mothers with sons receive support in old age it is not an automatic rule. I recorded some cases where old mothers were not happy with the care they received from their sons. These old women were circulated between their sons' homesteads because no one wanted to keep them permanently.

Each wife is expected to raise her children by her own efforts and with little support from her husband. She is responsible for producing their food and for obtaining money for cash expenditures, including clothes and school fees. This often puts her under considerable economic pressure because, in addition to feeding her children, she has to give money to her husband. Women's economic situation changes with the maturation of their sons. Women receive monetary support from sons who have found qualified employment due to the school fees that their mothers managed to pay as they were growing up.

When one of her children marries, a Gusii mother becomes a female elder, *omongina*, which is the highest status she may achieve. She is called *omongina* as a sign of respect and given a wider range of freedom to express herself: She may now drink beer, and can demand help from her grandchildren.

3. Women's relationship with family of birth

Bridewealth also establishes a relationship between a wife and her natal home. She becomes respected at home: "When bridewealth is paid there is respect to your parents. Even if you are mistreated you cannot become an *omotangatangi* because bridewealth was paid". Women emphasize the importance of pleasing parents through bridewealth payment, and the special prestige and status which they are accorded at home by virtue of the payment. "If bridewealth is paid you can go and ask your father for money because you know he was given something for you".

Thus payment gives the woman social and economic support and help if she is in need. A special link is forged between a woman and the brother who used her bridewealth to marry. Today, such a bond also exists with the brothers whose school fees were paid by her bridewealth. When visiting her home, she will stay in this brother's wife's house and she will be given food

cooked by her sister-in-law, *ekemati*. Her brother cannot command work of his cattle-linked sister and has to be "softspoken and respectful" towards her. She, on the other hand will be able to command her sister-in-law, asking her, e.g., to fetch things, cook, etc.

The importance of this relationship can be further illustrated by the explanation one of my informants gave about using a daughter's bridewealth for a marriage instead of something else:

> If I or my husband die and our daughter needs help from her brothers they would not help because they would say that they did not benefit from her. The bridewealth therefore builds a bridge between sons and daughters. When my sister-in-law got married her father used the bridewealth for his own marriage. When the sister-in-law comes here she is not welcomed by her brother and their wives cannot cook for her and her children. They tell her to go to the wife whom her father married with her bridewealth.

A woman's link to her natal home therefore depends on her bridewealth being paid, and upon which family member who used it. The brother-sister tie is not automatic but based on reciprocity created through cattle received for the sister.

A wife's rights in her husband are few, and he has absolute authority over her. Those rights which she does enjoy are discussed in the part of this chapter dealing with divorce. Her rights are ensconced within the house-property rules and established through the payment of bridewealth. In disputes with her husband, legal marriage gives the woman a certain amount of support from her father and brothers as well as from her parents-in-law, in that they can interfere with the husband in the case of severe maltreatment. A wife's rights are thus best viewed as use rights in property rather than rights to services from her husband.

4. Women's rights in land

Women obtain rights in land through marriage with bridewealth. Upon legal marriage, a woman becomes the future head of a house which constitutes a legal corporation controlling land, cattle and other forms of wealth. As a mother, she is manager of her sons' property until they are mature and married. As a wife, she gains the right of use as a trustee of her sons' estate but is not entitled to reallocate the land.

In order to prevent conflict over resources, division of land between wives takes place when at least one of them has children who are approaching maturity. One male informant gave the following reason for partition:

> I divided land between my wives so that each could plant as she wished. Disagreement may otherwise have resulted if I had only divided informally. One of the wives might plant cash crops wich could cause problems for a future division. One could claim she had been given a smaller piece than another. There was conflict between the wives before, but after the division they have been on good terms.

Another reason for early division of land is that it gives a wife secure access to resources, in relation to other wives. Property demarcation thereby encourages the wives to invest in their production units. This is expressed by one middle-aged woman:

> Land was divided because if we had cultivated together it may have encouraged laziness. When land has been divided each one takes care of her own children. Now I work very hard to see to it that my own children are well fed and clothed. When land is divided children from the first wife will not help to pay school fees for children from the second wife. By division a wife is therefore compelled to take care of her own.

In many families cash crops such as tea and coffee have been planted for the last 20 years under the husband's supervision. If a man has not subdivided land between his wives, he tells them where to cultivate each year. He appropriates the income from the crops they grow and sell. As the wives have more children, and demands on income for school fees, in particular, increase, co-wives become jealous and suspicious of each other with respect to how the husband divides income between their houses. Division of land and cash crops partly removes the grounds for such conflicts. Division is normally done under the supervision of local elders but if wives do not agree, *etureti* elders and the chief are called upon to arbitrate. Each wife is expected to arrange the subsequent division for her sons. The son who marries first receives his piece first and the mother remains the supervisor of the other pieces until the the younger sons marry.

In order to reach an acceptable compromise, division of land takes into account such factors as land quality, distance to roads, and the location of each wife's cash crops. Although ultimately controlled by the husband until his sons have become adult, tea or coffee planted by a particular wife will be part of that wife's allocation.

The attempt by a monogamous man to take a second wife is often opposed by the first wife. One example of this, which I witnessed first hand, was a monogamous family where both the husband and the wife were practicing Christians. The following is a condensation of my fieldnotes:

> Although not wealthy, they have managed to send a daughter and a son through secondary school and further education. The husband is about 55 years old and the wife about 50. They have four sons and two daughters. This husband acquired a second woman by elopement. He built a new mud house on the upper part of the farm where he settled with the young woman. His wife was very angry and moved her house to the lower part of the farm. She then sent a message to her son and daughter who were working in Nairobi to come and talk with their father. This had no effect and the assistant chief was called upon to arbitrate. He administered a division of the land so that the husband retained a small *emonga* and the wife received the rest of the land. This did not satisfy the wife who incited her adult son to beat up his father. After he was thrashed by his sons he uttered curses which in turn made the oldest son so sick that he had to be taken to hospital.
>
> The husband then beat up his wife who came to the European priest at the Roman Catholic mission where she was treated and given a bed to sleep on in the nuns' quarters. The next day she moved to her mother's home and made several excursions to Kisii Town to try to persuade the bishop to put pressure on her husband.

The outcome of this quarrel is not known to me, but it illustrates the nature of conflicts latent in the family system, especially in a situation of severe land shortage. In contrast to earlier decades when land was not scarce, the husband's marriage to a second wife results in a division of an already small farm into two parts.

However, in this case, the husband had not paid bridewealth for his new spouse, and her situation was precarious. Since no bridewealth had been paid, the husband could not effect a formal division of land between the two women, but had to divide the land between himself and his wife. He could then keep the second woman on his personal land, the *emonga*. If he does not pay bridewealth, his sons may succeed in forcing him to evict her. If he should die before paying bridewealth, the sons will expel her and all her children from the property and take the *emonga* and they will be perfectly within their rights in doing so.

Land shortage and competition for land has made bridewealth important, not only as a regulator of descent relations, but also as a marker of legitimacy with respect to rights in land. A man's legal wife has customary use rights to his land and his legitimate children are entitled to obtain shares of land in the process of devolution. Divorce completely dissolves her rights to land if she has no sons with her former husband.

Elizabeth had been married to two husbands. Her first marriage was to an old man for five years and she had children with him. She then left him, went home, and was married to a second husband who also paid bridewealth. She stayed with him for some years and wanted to go back to the first husband who had been refunded his bridewealth. She took all her children from the second husband with her to her first husband and a house was built for her. The time came for the husband to divide land. The sons of this husband's first wife reminded their father that he had once chased the returning wife away and obtained a refund of the bridewealth; hence, she should have no land. The sons subdivided all the land among themselves including the land where Elizabeth's house was situated. They told her to leave and go back to her second husband. She consulted the assistant chief who called her parents and they confirmed that bridewealth had been refunded. Her parents recommended that she should return to the second husband which she finally agreed to do.

This example illustrates how competition for land has changed bridewealth from a means of forming large families and of obtaining rights in people, to a means of regulating access to land. A generation ago Elizabeth's husband would have paid bridewealth for her a second time because she and her children would have been an asset to the family. Today, land is scarce and bridewealth has become an element in the competition for land, instead of people.

5. Cattle as house property

Although the modern Gusii economy has become highly cash oriented, cattle are still important. The house as a corporate unit has specific rights in cattle, which are different from monetary income. If through sale of crops, a wife

manages to save enough money to buy cattle, her husband cannot alienate them from her house. Hence, women can protect their savings by purchasing cattle for their sons. Cattle obtained in this manner are the property of the sons of that particular house, but mothers may use them for house expenditures such as school fees for her children. If the husband is dead, she has considerable freedom and may use livestock as she sees fit. A husband may borrow such cattle, but has to replace them.

Husbands who acquire cattle through purchase with money earned from business and cash crops often tie them to particular houses. Such division must be equal, otherwise jealousy will erupt. To tie cows to a house means that the cows will be given to the sons of that house when the father dies. If only one son obtains a cow, the offspring of that cow will be distributed among all brothers of the particular house, in order to ensure all sons a share in the family cattle. Although a wife has obtained cows through her own efforts, she may not sell any without the consent of her husband:

> If a wife buys cows they are considered hers, but she may not sell any without asking her husband. If sons consult the father about selling cows, they and their mother must explain why they wish to do so. If the father is not satisfied he may prohibit the sale. When the sons are married, they may do what they want with the cows.

Cattle are considered the special property of houses so that, as soon as money has been exchanged for cattle, the husband's ability to appropriate income is circumvented. An equivalent amount of money which a woman may obtain through the sale of crops is considered to be the husband's because he owns the land on which the wife labors. He may take such money at any time, but cattle are considered to be the property of the sons of the mother whose work made their purchase possible. This implies an identity between land and cattle as *etugo*, the life-giving resource which makes the house grow and the sons marry. Since sons must obtain land for the growth of the descendant lineage, they have rights in the land of which the father is the custodian. Cattle are also necessary for the growth of the lineage and thereby attached to the house. Money falls outside this model and can therefore be completely controlled by the husband/father. In practice, few wives manage to save money and buy cows without the husband's knowledge. It is usually widows or women with mature sons who can attempt to buy livestock for their sons. The money a woman uses is considered to be the sons' because the land on which she works belongs to them.

The bridewealth contract

1. Replacement

The rules of replacement of bridewealth, or compensation for the death, or sterility, of a wife are today seldom complied with. I have only one recorded case of the return of cattle upon the death of a wife. Dead bridewealth cattle is also seldom replaced today. Compensation for a sterile wife has dis-

appeared and been replaced by a rule allowing a husband to divorce such a wife. This is a change in norms since the time of the Mayers' fieldwork in the 1940s, when a sterile wife was meant to be retained by her husband.

The practice of replacing bridewealth cattle that subsequently die has become obsolete partly because most beasts are sold soon after they are received. When cattle circulated in marriages there were always claims for replacement. Today, they enter into commercial exchanges which obviate such claims. Furthermore, in many cases, bridewealth is, partly paid in money, and the number of cattle paid are few, thereby reducing the chance of death among the beasts of a single payment. Another factor which the Gusii point out is that it is impossible to force the in-laws to replace the dead cattle. This would involve bringing the case to court, which is a lengthy and costly procedure. In addition there are no other channels through which the wife-takers can be coerced into replacing the dead cow.

Under the old rules, wife-takers always had some incentive to replace dead bridewealth cows because they might in the future have to ask for compensation for a sterile wife. Today a wife who does not bear children is divorced instead.

2. The husband's affinal relationships.

With the transfer of bridewealth, new social statuses are established through the affinal link between the families of the husband and wife. They are *abako* to each other. In this section I shall concentrate on the husband's relationship with his wife's natal family.

The statuses are defined by their specific relationship with which are associated certain modes of behavior and attitudes.

Rules of behavior between a man and his mother-in-law are characterized by strong avoidance. A son-in-law is not supposed to shake hands with his mother-in-law; he may not enter her bedroom or cooking area; he may not watch her cooking. Nor is he supposed to eat a variety of foods in her presence such as beans, maize, sugarcane, chicken and eggs. Furthermore, he is not allowed to talk about certain subjects pertaining to bodily functions, a prohibition concerning adjacent generations in general. He is also especially prohibited from mentioning the fact that he is married to her daughter.

Breaches of these avoidance rules have to be atoned for by the slaughter of a goat, provided by the offending son-in-law. For example, if while visiting his wife's family, a son-in-law enters his mother-in-law's bedroom he must sit down and not move while a child is sent to his home to collect a goat which is slaughtered and eaten on the spot. Only then may he leave the room and the hut, by way of the living room where guests are received. This door is the only one he may enter while visiting his mother- and father-in-law.

Food taboos do not apply in relation to his father-in-law but hand shaking is not allowed. With wife's brothers such restrictions are not imposed, but a man should take care not to drink too much when visiting, because when drunk he may behave in a disrespectful manner and argue with them, which

he should not do. If he soils his clothes when drunk he may be forced to borrow a brother-in-law's clothes, which is also considered improper.

A husband should not visit his wife's parents and brothers too often, and he should never sleep in their homestead. Visiting takes place by day, should not occur more than once a year, and is usually done not more than once every third or fourth year. Too much visiting causes loss of respect, *nsoni*, in that you become too familiar; "they learn your behavior and character". A man who visits his in-laws too often and sleeps there is called an *enindaboko* and is a subject of ridicule to his agnates and in-laws. He is regarded as slothful and lazy, not having work to do in his own home.

The *enindaboko* is a rare occurrence and the concept reflects the absurdity, to the Gusii, of a man visiting in-laws too often. Visiting is normally occasioned by the sickness of a parent- or sibling-in-law. As the years go by, visiting ceases altogether.

The general principle is one of almost total avoidance of the wife's family members. Reciprocal assistance with food, money, or labor is also kept to a minimum. Gifts of food and small amounts of money are made perhaps once every second or third year. A husband seldom gives anything to his in-laws; it is mostly his wife who gives presents to her family and goes to them to help with farm work.

The obverse relationship between a brother and his sisters' husbands, is different. A brother or sister may visit their sister several times per year. Young sisters and brothers may come to help with weeding and harvesting. They may also stay overnight, without having to observe any taboos other than those applying between generations and sexes. Such visits are considered to be made to the sister rather than her husband.

3. Divorce

Gusii divorce practices and norms give an insight into the character of bridewealth and marriage. Divorces are very rare in Gusii society, but temporary separations are fairly common. A divorce is accomplished in the following way. If a divorce takes place and the wife has borne no children, the whole bridewealth is refunded by her parents. If she has given birth to children, two cows per child are deducted from the refund. So if, e.g., a man has paid four cows and the woman has given birth to two children, no bridewealth is returned. When the number of cows to be deducted equals or exceeds the actual bridewealth no divorce can occur since no refund of cattle can be made. The only possibility for a husband or a wife to obtain a divorce in such a case is a total refund of the bridewealth, reverting the husband's rights in the children already born.

A "wife's barrenness" is a cause for divorce. A Gusii man will never admit that he may be sterile so it is always believed to be the fault of the woman if she bears no children. This is a recent change in the divorce rules, which occurred during the 1960s. It is perhaps due to the fact that it is difficult for men to acquire more than one wife (see chapter 9). Hence, the fertility of the single wife is important.

Today, a wife can ask for a divorce from her husband. She may put her wish for a divorce to her father or brothers who, if they agree, approach the husband and his family. If her father or brothers do not agree to the divorce, she can take the case to a male elders' council, to the chief, and finally to court where her rights to sue for divorce are constitutionally recognized. Although it is possible, few young women with low education and no knowledge of either English or Swahili will go to court of their own volition. They are not familiar with procedures and often lack the requisite knowledge to pursue such action. They also lack the money to pay for lawyers' fees. Finally, such action taken by a woman on her own would not be considered valid in her family and social environment. Only by convincing a brother or father of the desirability of a divorce can she succeed.

Her male guardians are not likely to be favourably inclined to their sister's/daughter's divorce since this would mean the return of a bridewealth that they have planned to use for other purposes, or have already used. The woman who is dissatisfied with her husband goes home to her parents, who send her back to her husband. After repeated returns she may elope with another man or try to settle on her own, thereby causing her husband to complain to her parents or brothers and demand a refund of bridewealth.

Wife beating is considered by both men and women to be within a man's privileges, as are heavy drinking and leisure. These modes of conduct do, however, have a limit. Heavy and repeated beatings over a year or two will often convince the woman's guardians of the necessity for a divorce. Heavy drinking and refusal to fulfill the minimum of a husband's obligations will also act in favour of a wife seeking divorce. If she can show that the husband refuses to let her have enough land and to keep enough money to feed her children or does not assist in building her house or if he sells land, she is considered to be entitled to divorce. Refusal to have intercourse with a wife is a reason for her to seek divorce. Strong suspicion that a husband, co-wife, or the husband's parents have commited witchcraft, is also considered a sufficient reason for terminating the union. In addition, if a husband forces his wife to have sexual intercourse with other men when he is impotent she can demand a divorce. However, her ability to obtain a divorce disappears after she has borne a number of children, because there are no cattle to refund if the husband chooses to retain his rights in his offspring.

A husband seeking divorce has to confer with his father or his father's brothers if they are alive. Otherwise he should confer with his brothers, whom it is considered polite to inform about such matters. Usually male elders' councils are approached and the assistant chief is involved. The assistant chief calls the wife's parents, and the elders try to reconcile the parties and reach a settlement rather than a divorce. If both parties agree to the divorce the elders will witness the return of the cattle at a *baraza*. If, however, one of the parties does not agree to divorce, the matter has to go to a court, which is the only institution able to enforce return of cattle.

Divorce is sought far more often by wives than by husbands, which is not surpising considering the abuse and violent treatment that they have to

endure. It is, however, of very rare occurrence. Usually, marital problems are resolved through the mediation of the male elders' council, and discussion between the wife's father, the husband's father, and other close, male relatives.

Since a divorce cannot take place without a refund of bridewealth, separations are the final alternative when conjugal incompatibility is severe. A divorce entails the physical separation of a woman from the former husband's homestead and a relinquishing of his rights *in uxorem* and *in genetricem*, but not necessarily from her rights to return.

It is very unusual that men do not keep their children after a divorce. So, if the mother has given birth to sons these sons will obtain land at their father's farm when they become adult. When a son receives his land, his mother may then return to his homestead, thus retaining her rights as a mother while losing them as a wife.

As long as the husband has not got his bridewealth back, he retains full uxorial and genetricial rights in his wife and can call her back. Only when a wife marries a another man will she stay away for good. Otherwise: "When boys become big they will be given land and they go and collect their mother".

In the case of long-term separations, issues may become very complex when the wife goes to live with other men with whom she has children. If the other men do not pay bridewealth, all children belong to the man who did pay. Even though physically separated from the husband's homestead, the mother and her children still exist as a house, *enyomba*, with intact corporate status as a unit of descent, inheritance and succession to property. As one informant said of his wife who had left him:

> As long as she stays with the children at her parents' place, she still loves these people [husband's family], but if she goes to another man it means she has rejected these people. If she is at her parents' home with the children they are not worried because the relationship is still existing but if she goes to another man they have to make sure they take the children back.

The physical separation of the house from the father's home does not abolish his rights to receive bridewealth and to use the first daughter's bridewealth, or to count his children as his descendants.

Sometimes a separated woman's parents receive a second bridewealth from a second man without refunding the first. In such cases the principle is clear; the first husband has the right to the children of the second because the second bridewealth has not been transferred from the woman's parents to the husband as a mark of the completion of his divorce. Such cases are not easily settled because the second husband may not be willing to relinquish his children for which he paid bridewealth in good faith. The following case illustrates the web of complications resulting from a double payment as well as being a good illustration of sons bringing their mother home after a long separation:

Elizabeth was married to Dolphas in 1960. In 1968 she left him as a result of a conflict when he took a second wife. Dolphas expelled her five times during this period and, when she left in 1968, was not willing to receive her back despite adjudication by elders. She left two sons behind. While visiting a sister she met another man with whom she took up residence. This man also paid bridewealth for her, but the first husband was not refunded. In 1983, her two adult sons whom she had left with her first husband, brought her back and built a house for her on their land, without their father's consent. Dolphas did not resist his sons' return of their mother.

The death of a husband is not itself a cause for divorce: the woman will continue to be his wife and to bear children which are considered to be the children of the dead husband. While it is possible for women to obtain a divorce when a husband dies, it is rarely done except if she has no children. If she has children she will continue to live on her allotted land, since finding a new husband who is willing to pay bridewealth is exceedingly difficult. In cases when the man dies before having paid bridewealth, his brother and father are ideally responsible to pay her parents in order to make the dead brother her legal husband and his children and all future children his. Such post mortem payments are not common today because of land shortage, which results in brothers expelling their dead brother's partner and her children.

A case of an uncommon, recent post mortem payment was recorded and illustrates the principles behind bridewealth payments, which are independent of the physical existence of husbands for marriage and the creation of descendants.

John, who was a policeman, eloped with Moraa in 1981 and died in 1984 without having paid any bridewealth. The day after John's burial his brothers met with Moraa's father and negotiated the bridewealth, which was later paid.

According to one of John's brothers: "We liked our brother's wife and she already had children, so we decided to pay. She worked hard, did not quarrel, and respected everyone in the family"

Land was allotted to her house and witnessed by the elders. After this she could be officially inherited by one brother who would act as her male guardian and be allowed sexual intercourse with her. Children born of such a union would however still be hers and her dead husband's. Or she could decide to receive lovers of her own choice. The death of her partner and the subsequent payment of bridewealth made her the head of an independent house, *enyomba*, which holds corporate rights in land and all other property which was owned by her former boyfriend.

"Whoever inherits me is not entitled to use any of my income from crop sales. I am now independent" said Moraa after the bridewealth was paid by her brother-in-law.

By posthumous payment of bridewealth, John was assured descendants and his wife gained a secure source of subsistence and social status as the mother of sons: the true inheritors of her husband's land.

The death of a husband may cause divorce, in that his brothers may expel his wife and her children if she has no adult sons. In this instance a complete divorce, with a total refund of bridewealth and total loss of rights in children, is effectuated. A dead man's brothers can thus perpetrate the reduction of their brother from a married man with sons to an unmarried man without

children: a horrible fate to the Gusii. The only way to obtain a divorce is with the agreement of the wife's brothers and such consent can sometimes be achieved by physical and psychological harassment of the wife and her children.

Kwamboka married her husband in 1969 and he died after one year. She stayed and had children with a brother-in-law, who also died. Her husband's half-brothers then expelled her and her six children from the homestead, and she went to her parents. She was forced to leave behind a cow and the land which belonged to her house. The half-brothers were not interested in retaining their brother's children but instead pressed for a divorce with total refund of the bridewealth. Her brothers arranged another marriage with an old man whose wife had died. He wanted to marry her to have a young wife to take care of him in old age. He also accepted all her children who became his when the bridewealth was returned to her former husband's half-brothers. Her brothers obtained the bridewealth from the new husband first and then passed it on to the old husband's half-brothers.

In the related case the woman's brothers managed to arrange another marriage for their sister and to effectuate the divorce by refunding the bridewealth. This is the normal procedure when a divorce takes place. In order to return cattle, the woman's guardians first have to obtain bridewealth from another man willing to take the woman as a wife. If this does not happen it is unlikely that a divorce will occur.

Conclusion

In this chapter, the social and legal norms connected with bridewealth payments today have been examined. The rights and obligations concerning a husband's relations to his children have remained the same as in the colonial period in some respects, and have changed in others. Bridewealth still makes a man a father according to Gusii notions, but his authority over his adult children has drastically declined. Conjugal rights are also established through marriage payment and regulated through a system of legally and socially sanctioned norms.

The wife's rights to land and house property remain as part of her status but today the land is considered the most important asset. While women's monetary incomes can be appropriated by husbands, cattle have special status as house property which is respected as much today as before. Sons obtain land as the legal issue of their father.

Thus, the transfer of bridewealth is an act which establishes socially and legally enforced norms of behavior between the spouses. These are both binding rights and obligations and rules of proper behavior, e.g., respect, *nsoni*. It is important to stress the bridewealth transaction as a legal fact making certain mutual obligations compulsory (Jacobson 1967:159), because it is around this aspect that individuals' actions revolve. The legality is an important factor, not only as a limitation to transactions, but also as a resource which can be manipulated. Actions may take place according to the

jural rules or people may evade or reinterpret them. In any case, evasion, reinterpretation or conformity occur with reference to them.

In the light of the material so far presented, however, the view of bridewealth as being transferred in exchange for certain rights in a woman is only partially applicable. Some authors have suggested that rights in a wife are in some way transferred from wife-givers to wife-takers (Goody 1973a:3; Kuper 1970:76f; Mair 1971:50f). Other researchers have maintained that the exchange aspect of bridewealth is of secondary importance. Instead they point to bridewealth as a symbolic transfer which legitimizes a marriage and establishes certain conjugal rights and obligations between spouses (Jacobson 1967; Ogbu 1978).

The question of bridewealth as an exchange transfer and as a legal fact is complex. In the Gusii case conjugal rights and obligations have changed since the early colonial period. There are strong indications that these modifications are partly the result not of a change in what the wife's natal family are transferring, but of alterations in the transactional situations between men and women. In the early colonial period the husband's circumscribed rights in his wife's labor capacity did not mean that her family retained any of these rights. Instead, the woman in her status as wife controlled her own person to a much higher degree. Since wife-givers did not control these rights they could not affect a transfer of them. In the colonial perod, as has been shown in chapter 5, a husband's rights in his wife's labor were extended, and bridewealth became a means for securing such rights. The process was the result of institutional changes and the expansion of the market economy, which gave men incentives and the power to increase their rights in marriage vis-á-vis women. While wife-givers supported the husband's rights, they did not effect the change in their content.

Although Gusii bridewealth is viewed as a legitimizer of a conjugal union rather than as an exchange for rights *in uxorem*, its role is different with respect to the affiliation of children. It is with respect to rights in a woman's reproductive powers that Gusii bridewealth takes on the character of an exchange between the husband's family and the wife's family, of paternal rights in children borne by her. While affiliation of children has legal and social importance, it is ultimately linked to a cultural model of society and reproduction, that is, to the idea of lineage segmentation and growth through cattle transfers.

Legal rights in children have changed over time. In the colonial and pre-colonial periods, individuals competed for control over people; thus affiliation and its behavioral content was a matter for regulation. Today, a father's rights in his children are of little legal significance, since children are not the object of competing claims. Payment of bridewealth, however, still makes a man a father and a woman a socially defined mother.

Bridewealth establishes a legal union with rights and obligations between husband and wife, and between parents and children, in relation to resources. Thus, it assumes importance as evidence of the status of wives and sons as legitimate users and inheritors of a man's land. It is continuously cited in

disputes between brothers, as well as between the legal wives and the unpaid-for women with children who are living with the husbands of the former.

It is also in this context that a woman's status as a mother becomes important, because her rights are, in the long run, dependent on her status, not so much as a wife, but rather as a mother of her husband's legal sons. This is further illustrated by the fact that women do not need real husbands in order to marry, e.g., daughter-in-law marriage. In this case it is a woman's affiliation to a male descent line that is achieved through the transfer of bridewealth. As a mother of sons she gains access to resources, support in old age and prestige. Without any sons a wife may be deprived of land and cattle, and ultimately forgotten.

Finally, the character of a man's relationship with his wife's parents and brothers has continued to be one of avoidance and distance. Although litigation over bridewealth has lapsed, interaction between affines is still very low. The norms for behavior between a man and his wife's natal family have been retained. This indicates that the same concepts of social classification persist. Affines live at a distance and generally have little incentive for social and economic relationships. The obligation for assistance and rights to property are still vested in the localized descent group, narrow though it is today.

Chapter 9

The Changing Value and Use of Bridewealth

Introduction

Since the colonial period a number of changes in the norms and behavior related to bridewealth have taken place. In the following two chapters I examine the current role of bridewealth among the poor farmers. The situation with respect to the emerging elite and employed strata are treated in chapter 11. The features of change which are dealt with here concern the following; the pattern of marriage and elopement, the circulation and value of bridewealth, the social and economic effects of the current pattern of bridewealth use, and the strategies employed by individuals in relation to marriage and bridewealth.

The decline in bridewealth value

As is shown in Figure 9, the average value of bridewealth payments has continuously declined since the beginning of the 1960s. In 1965 the average number of cows paid in the Sengera and Suneka study areas, was 18 and 11 respectively, while in 1983 it had declined to two or three cows or bulls or their equivalent value in Kenya shillings. This dramatic decline in bridewealth essentially concerns women who are not gainfully employed. The small minority of employed women, however, continue to fetch high brideprices as will be discussed in the next chapter.

A number of hypotheses about the causes of this reduction can be put forward, attributing it to factors such as diminished demand for wives, decrease in earnings, or increase in cattle prices. Due to the fragmentary and unreliable nature of economic statistics concerning expenditures and incomes it is very difficult to assess the relationship between earnings and bridewealth. I have very little information about the price of cattle in different years, but using available studies with data on household income, I attempt here to relate earnings from cash crops to bridewealth levels. These figures do not include wage earnings and are incomplete with respect to the sale of milk, maize and vegetables. Nevertheless, since 1966 there has been a continuous decrease in the value of bridewealth with respect to both monetary and cattle value. From 1966 to 1980, however, there has been an increase in household

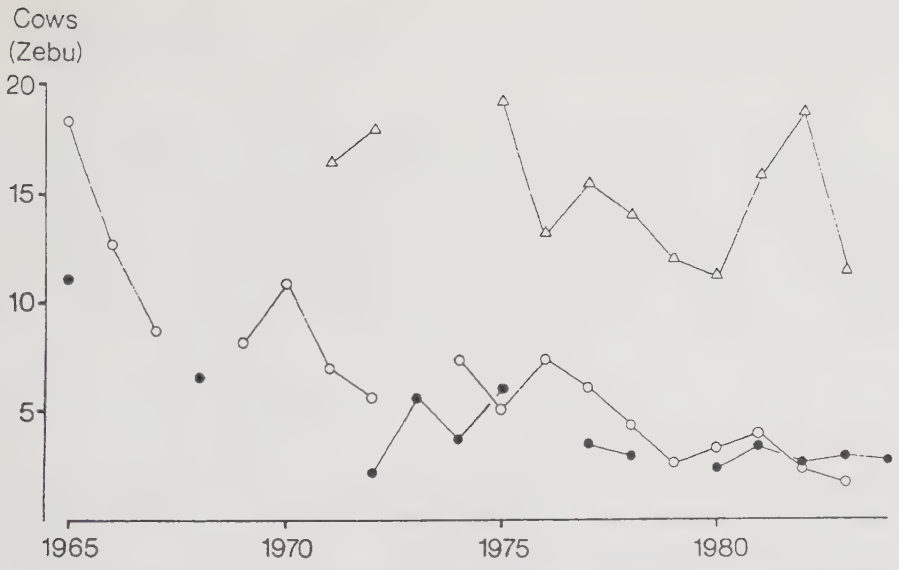


Figure 9. Diagram showing yearly fluctuations in bridewealth values in terms of Zebu cows. The graphs refer to bridewealth paid for non-employed women in the two study areas, and for employed women in Kisii District. Although the majority of bridewealth payments for employed women were made in cash, I have converted these payments into cows in order to obtain comparable figures for all observations. The monetary values have been calculated according to approximate market values for Zebu cows as follows: 1966-77 = 300 shs; 1972-77 = 500 shs; 1978-84 = 800 shs. Approximate cash values for exotic cows are: 1972-77 = 2,000 shs; 1978-84 = 4,000 shs.

△ = employed women
○ = non-employed women, Sengera
● = non-employed women, Suneka

earnings and a lesser increase in the price of cattle. In 1966 the average income from marketed output per farm in Wanjare and East Kitutu was 1,020 shs (Uchendu & Anthony 1975:79). A cow cost about 300 shs, i.e., a third of the monetary income. In 1974, Wilemski (1975:220) estimated that farm income from sale of agricultural products was ca 3,000 shs in Bassi and the cost of a cow was now about 500 shs. Hence, the price of a cow had declined in relation to income[1].

While the cow price fell in relation to agricultural income between 1966 and 1974, bridewealth declined to five head of cattle in Suneka and about seven head of cattle in Sengera. Hence one may hypothesize that the decrease in bridewealth is not related to a reduction in gross income. Other factors probably caused the decrease, i.e., a decline in the demand for wives and the redirection of income towards consumption and alternative forms of investment.

The demise of polygyny

1. Polygyny rates

Polygyny has declined and with it the competition for women. This observation has been confirmed by comparative research in East Africa showing that low polygyny rates are associated with lower bridewealth and *vice versa* (Goldschmidt 1974; cf. Parkin 1978:267). Other allocations of income are regarded as more profitable. Young men are more interested in using income and cattle for other investments than to pay bridewealth. In addition, the increased costs of other items may also affect the actual income.

Table 8. Polygyny rates in different areas and time periods in Kisii district. The data derive from my own material and other estimates. My figures refer only to married men and women and exclude cohabitations.

Year	Number of married men & women		Ratio of wives to married men	Sample population and source
1957	27	40	148 %	"Nyansongo", Nyaribari (LeVine & LeVine 1966:21)
1962	From total population		143 %	Kisii District (Kenya Government 1962)
1968	33	39	118 %	"Nyansongo" (Nerlove 1969:41)
1985	69	81	117 %	Suneka, Wanjare (own survey)
1985	83	112	135 %	Sengera, Majoge (own survey)

Reliable statistics on rates of polygyny over time are very difficult to obtain, and I have attempted to compare the polygyny rates from my study populations with earlier figures and estimates in the literature (see Table 8). The latter data are based on samples other than my own and may therefore be misleading. The figures do, however, show a reduction in polygyny, which is confirmed by qualitative statements by informants and researchers. It should be noted that the polygyny rates from "Nyansongo", studied by R. & B. LeVine in 1956-57 and by Nerlove in 1968, show a marked decline between these years.

Another researcher, working in Bassi location, also observed that polygyny is declining (Wilemski 1975:94), and informants generally claim this to be the case. The decline is attributed by informants to land scarcity, school fees and other expenses. As one wife told me: "There are problems with being two wives on the small land. There is also a lack of money, and the little there is the husband keeps on dividing between his wives".

Land in particular is felt to be the limiting factor. Although a number of men would like to take more wives they "realize that they cannot support a second wife. If they have eloped they will send her back. In earlier days there was much land and people could stay nicely".

According to another informant:

"There has been a decline in marrying many wives since the 1950s, due to school fees. When getting a job you also have to buy other things such as khangas (cotton cloth) and blankets".

Prestige is still attached to polygyny in many rural areas, and young men often elope with another woman even while legally married to someone else. Although men may wish to legalize such unions they usually lead to estrangement after a while. This was the case with Richard who eloped but decided to "chase away the woman and the children because the farm is too small. It's too little land for two wives because if they give birth to sons there is too little to divide".

2. Economic constraints

It is not surprising that land scarcity makes itself felt as a limitation on plural marriages since farms today are in general too small to support several families. In many cases young men do not marry because their fathers do not have enough land to divide among their sons. When considering polygyny men take into account the economic profitability of wives' work, the cost of children, and the prestige and influence enjoyed by a man with several wives and many children.

A rough calculation of how much land is necessary for the subsistence of two wives with children shows that most farms today will not allow men to take more than one wife. In this calculation I use a simplified farm which grows one food crop, maize, and a cash crop. The productivity of maize in most areas of Gusii Land is about 720 kilograms per acre (Wilemski 1975). An adult consumes about 500 grams per day, which makes 360 kilograms of maize per year for the subsistence of a husband and wife, assuming they eat only maize. Adding five children, who consume 300 grams of maize each, produces a figure of about 912 kilograms of maize per year for the whole family. This can be produced on 1.25 acres (Wilemski 1975). Gusii farmers also grow cash crops for income to pay daily cash expenses. Cash crops are usually grown on about 30 percent of the cultivated land on farms (Wilemski 1975:60; Bager 1980) which would require our model farm to be about 1.75 acres. In addition, about 30 percent of the land lies fallow for six years at a time and is used for pasture, giving a requirement for 2.5 acres. Houses and hedges will cover another 0.5 acre. Thus, a total sum of three acres is necessary for a husband, his wife and five children.

In order to accomodate another wife and her children on a farm capable of supporting themselves, at least another two acres are needed, assuming that the husband derives his subsistence from the first wife's maize. Hence, at least five acres are necessary for the support of two wives. In reality a number of other factors intervene which will make the essential acreage larger, such as swamp land, barren land on high slopes, trees, and farm buildings and as a result an estimate of six acres may be more realistic. Since most farms in Gusii Land are smaller than six acres, it is understandable that polygynous households have difficulties supporting themselves.

In contrast to the urban Luo, where the men often have one wife in the city and another on the farm in Luo Land (Parkin 1978), Gusii men working in towns do not enter into polygynous unions in order to have one family in each of their dwelling places. Thus, labor migration is not a reason for creating polygynous households. Within Gusii Land, however, businessmen with local shops or maize mills often have two wives: one who takes care of the farm, and one who helps to run the business.

Having two wives on a small farm demands the purchase of extra food over and above what the wives produce themselves, and adds to the other costs of a large family. Although the Gusii desire many children, and the men many wives, they are not blind to the necessity of giving children clothing and the consequent drain on the man's earnings in off-farm work. The principal cost that Gusii see as incompatible with plural marriage is school fees. Education as a means to gain employment, is highly valued and is the most important expenditure, taking precedence over marriage and investment in farms and businesses (cf. Bager 1980).

Gusii men view marriage from an economic standpoint, calculating the worth of a wife as a producer. "When contracting a marriage it is strictly economic status that counts these days. Boys and girls look at each other from an economic standpoint −− what you can gain from one another". Another farmer expressed the direct connection between bridewealth and a woman's worth as a laborer: "The woman will come and work on your *shamba*, then you can buy cows and pay her bridewealth, so she is paying for herself". On the small farms of today with their high monetary expenditures, a woman's labor is no longer as highly valued. Young men do not feel that they need a wife as soon as possible in order to increase their economic standard of living and security. As mentioned above, many young men use their sisters' bridewealth for their own education and training, or to buy land, or to invest in business before thinking of entering into a legal marriage.

These considerations are formulated by a young Gusii man:

> There is very little land so I have to plan my farming and raise cattle so finances become better when I marry. I do not expect to pay more than four heifers for a wife who is not learned. Four is the maximum bridewealth for such ladies in this area. I do not want more than one wife because of the land shortage. At the moment I have two cows waiting to calf and I will buy more. I also get some income from coffee, bananas and timber from cypress trees. Because of economic pressure one cannot afford more than one wife.

Another man, Kennedy, who is about 24 years old, thinks: "It is too early to pay bridewealth; I have no plans to marry. I have bought some cows with earnings obtained when I worked as a laborer at the mission. I have no problem with pasture". He has eloped with a woman and has children with her but may expel her and the children if he is not satisfied with her. "Not a big problem if I lose the children; I can always get more".

Land shortage and alternative investments have therefore contributed to a decline in the demand for wives. Another factor to affect polygyny is the diminished prestige attached to having many wives, as compared with other routes to influence. Plural marriage still confers esteem on men, especially among people who have little education and few links to urban environments. The change which has taken place is that monogamy *per se* is no longer considered a sign of poverty or low social standing.

Other sources of prestige and influence today are: education, employment; wealth in the form of buildings, permanent and semipermanent houses, and cars; and ownership of businesses such as shops, restaurants, lodging houses, and large-scale farm enterprises. Employment in offices is especially valued. The educational and employment status of children also reflects on their parents. The higher educated and the higher placed the children the more prestige is enjoyed by the parents.

These new avenues for reaching social standing among men were already noted by R. LeVine & B. LeVine in the 1950s. Many prominent businessmen, politicians, and administrators in present-day Gusii Land have only one wife. They married in the early 1950s and have remained monogamous, or have recently taken a second wife more for comfort in old age than for reasons of prestige.

Today the possesion of many wives does not necessarily enhance a man's political and social influence nor is it likely to improve his economic standing. Among the Gusii, economic standing, the ability to control media of exchange, and the production of wealth are regarded as a precondition for social standing and influence. As an old polygynous businessman explained:

> Traditionally any man who had many wives would be reckoned as important and could have a lot of food cooked for visitors. Housework, bringing water and firewood was done by wives, and you could get many daughters and receive much bridewealth. Protection was also important. Big men had many cattle, many women, and many sons. They were decision-makers in disputes. A man with one wife was not respected, could not appear at beer drinking, and could not participate in decision-making.

Today food, water, fuel, and cooking facilities are all obtained through money. To receive visitors and to be able to give loans and gifts are all dependent on monetary income rather than the labor of wives. Bridewealth is no longer important. If sons are employed they pay for themselves, otherwise they elope. Disputes are brought before chiefs and courts where money and knowledge of Western legal principles are necessary. Local influence depends on local political bodies such as the county council, the local party organization, and the local administration and positions therein are acquired through monetary outlay on bribes, the serving of food and beer, donations to school buildings, and clinics, etc. Administrative positions, however, are awarded to individuals with a secondary school education. Finally, a new source of influence is provided by churches, which organize thousands of

members in most areas of the district. Polygyny is directly forbidden by churches, making it impossible for a polygynist to obtain a position there, whether for administrative work, manual labor or as deacons and members of various church boards.

The Gusii do not regard those monogamous men who have pursued other avenues to modern forms of wealth as anomalies or as in some way inferior in their local communities. On the contrary, local KANU officials, chiefs and assistant chiefs, and elected members of school boards and co-operatives are monogamists but are often wealthy in other ways. Therefore, in addition to economic constraints on polygyny rates, social change and new values also affect plural marriage and, ultimately, the value of bridewealth.

The diminishing demand for wives is perceived by the Gusii today as prompted by an increase in women: "There are so many ladies nowadays who want to get married; there are more women around these days". As an old ex-chief analyzed the situation: "Today there seems to be an increase in women. These days a woman does not wait for a go-between. They are worried about getting a husband, hence they elope".

4. Content of bridewealth

Although bridewealth has declined in value for peasants, it is still largely paid in cattle, in contrast to employed women for whom cash is generally transferred[2]. The Gusii have continued to pay bridewealth in the form of cattle, unlike a number of other societies in eastern and southern Africa which were paying mostly in cash as early as the 1950s (Kitching 1980:225).

Table 9. Composition of bridewealth transfers for non-employed women in Suneka study area. Transfers are designated as Money/Cattle if the cash component is at least 100 shs.

Years	Composition of bridewealth			Total
	Money	Money/Cattle	Cattle	
1963–68	1 (6 %)	4 (23 %)	12 (71 %)	17
1969–74	5 (45 %)	2 (18 %)	4 (36 %)	11
1975–80	1 (6 %)	7 (41 %)	9 (53 %)	17
1981–84	2 (15 %)	4 (31 %)	7 (54 %)	13

Table 9 illustrates the composition of bridewealth payments in the two study areas. In Sengera, the more remote of my study areas, all recorded payments were made in cattle during the period 1963 – 1984. In Suneka, about half of the transactions reported from 1975 to 1984 consisted exclusively of cattle, while exclusively cash payments accounted for six percent of transactions in the period 1975-80 and 17 percent between 1981 and 1984. Up to the beginning of the 1960s, almost all transactions consisted of wholly of livestock, but since then the cash component has increased. It is not possible to explain the jump in the proportion of exclusively cash payments in the years 1969-74. The small number of recorded cases do not comprise a statistically significant

sample. Since then at least four-fifths of all transactions have included cattle. During this period the total value of bridewealth per transaction in terms of cattle was about two to six adult head, and the majority of payments were made up of at least one or two animals.

The contrast in composition between the two study areas is probably attributable to a difference in access to money, livestock and grazing. Suneka area has less land available for pasture and fewer head of cattle per capita than Sengera. Hence the Suneka farmers have preferred to obtain at least a part of the payment in cash rather than to keep cattle on sparse or non-existent pasture land before selling the animals. Southern Majoge and Bassi have not yet been affected by the land shortage to the same degree as the areas near Kisii Town. Sengera has also had less cash crops than the former areas, as well as less access to wage labor and markets, making money less available.

The reason for retaining cattle is to be found in the meaning of bridewealth in peasant marriages. Bridewealth, as a compensation for the loss of rights in the woman's labor, is not as important as before since today men regard women's labor as a negligible source of wealth. Men marrying peasant women stress the following reasons for bridewealth payment:

"The main reason I paid was to get my children back". "When bridewealth is paid respect increases; you gain confidence with your wife and parents in-law".

"The relationship will grow; respect will increase. When bridewealth is paid in-laws will respect me more".

"If you do not pay you will not be regarded as one who is married. Once you have paid there is respect; you will be regarded as a part of their family".

The in-law relationship is also valued as a basis for control over wife and children, as is expressed by one informant: "If you have not paid you cannot argue if she leaves. And payment gives you secure title to children".

The payment creates a descent relation between the bridewealth-paying man and all the children borne by his wife. This relation is recognized by his in-laws and others.

Since bridewealth is transferred in order to establish new social positions in the form of patrilineal descent relationships and father/son status, it is cattle transfers which reproduce the family and the patrilineal descent group.

The importance of cattle in establishing a man as a father is further expressed during bridewealth negotiations, in which both money and cattle are discussed. That this importance is made explicit during bridewealth negotiations is shown in the following excerpts from a negotiation where the parties are shifting from discussing money to dicussing cattle. The bride-groom's father says: "I am not going to repeat again. I said six cows instead of the money, because if the children disagree, I will ask for the cows that I paid, not for money". Later in the discussion the bride's guardian states: "I want 20,000 shillings and four cows. 10,000 shillings will be spent on the wedding celebration and the cows are so that we don't destroy the traditions".

These quotations imply that, in case of divorce, deduction for children must be made in cattle and that the cattle are to be included because of the tradition to pay in cattle. Thus, cattle represent and express the traditional meaning of bridewealth as establishing descent relations between the patrilineal group and the children born to the wife. As will be fully discussed later, the inclusion of money in bridewealth must be integrated into the framework of cattle as the means of payment. Another negotiation, involving a man and a woman who are both employed, also illustrates this link between the marriage and the cattle:

> He therefore asked them if the cash would be equivalent to one grade cow or three native cows, because without cattle no marriage negotiations could succeed. We must talk in terms of cattle according to custom and then convert them into cash after arriving at some agreement.

A further example of the necessity of using cattle is that most of them are sold soon after being received as bridewealth, just as cattle are to a great extent purchased for the same purpose. After the receipt of the cattle, they are driven on foot to the wife-givers' homestead which may be 10-20 kilometers away. This demonstration of the bridewealth cattle is an open proclamation of the marriage.

In general, this problem of reconciling money with cattle does not occur in negotiations involving farming women, since they are generally paid for only in cattle. This is partly because poor farmers have less cash at their disposal but mainly because the bridewealth is low and emphasizes the establishment of rights in children. In summary it is cattle which can create descent relationships, even with bridewealth for employed women where other economic and social considerations enter into the marriage process.

The use of bridewealth

1. Redirection of investments

Since the beginning of the early 1960s bridewealth has been used for other commitments than marriage, such as school fees, land purchase, business investments and consumption. Today only a minority of bridewealth payments are used for new marriages. A few are even used to meet emergencies or simply for buying furniture or liquor.

Table 10. The use and allocation of received bridewealth in Suneka and Sengera.

Years	Marriage	Education	Land	Business	Other	Total
1951-56	5 (100%)					5
1957-62	11 (57%)	5 (26%)	2 (10%)		1 (5%)	19
1963-68	10 (43%)	10 (43%)	1 (4%)	1 (4%)	1 (4%)	23
1969-74	13 (43%)	13 (43%)	2 (7%)		2 (7%)	30
1975-80	19 (41%)	23 (50%)	1 (2%)	2 (4%)	1 (2%)	46
1981-84	5 (36%)	5 (36%)	1 (7%)		3 (21%)	14

As can be seen in Table 10, only 36 percent of bridewealth payments received during 1980-84 were used for new marriages. Most of the bridewealth is used for education, to pay the high fees for secondary schooling or for professional training. When the bridewealth cattle have been received they are sold one after another to pay such fees. In some instances, notably among the employed, the son-in-law is told to pay cash directly for specific purposes such as university fees or subsistence for one of his wife's brothers or sisters studying abroad. There are also instances of paying for the father-in-law's van or a permanent house for the mother-in-law.

In some cases bridewealth is used to buy land, or among the poor peasants, furniture, or for emergency expenditures such as hospital costs. These are listed under "Other" in Table 10.

Bridewealth is invested in the same manner as most of the surplus income from cash crops and earnings, indicating that contemporary Gusii view education with subsequent employment as the major goal for economic activities.

This shift in the use of bridewealth is attributed by the Gusii to the current economic situation and severe land shortage. The average Gusii farmer is preoccupied with land shortage and how it limits the possibilities for spatial and economic expansion. "Land was plenty before, there was no struggle to get it. But today you buy it and it is difficult to get even one acre".

2. Wealth, bridewealth and education

Education is highly valued by most Gusii, who view it as a prerequisite for gaining wealth and income. "A university degree is a stepping stone to riches". While investment in business and land is also seen as wealth, and a means to generate wealth, most families first invest in the education of their children. Although many older people regret the effects they think education has on children, such as disrespect to, and disobedience of elders, they consider it an indispensable means for economic prosperity. Hence parents are willing to invest much of their resources in their childrens' education. School fees and books are expensive, and many poor parents spend much of their income on their children's education to the detriment of their own subsistence.

Education, it is believed, makes it possible for the Gusii family to expand into new economic niches. It is no longer possible for a man to send his wives and sons and their wives to occupy new land, or to gain wealth and influence through the control of a large, polygynous, extended family. Bridewealth cattle were *etugo*, nourishment, with which the family and lineage would grow. The association between growth, economic expansion and bridewealth extends directly into its use for school fees, because education leads to employment and employment means wealth; and consequently, the expansion of the family into new resources.

This association is related by informants in the following way:

> It is more important to get an education than to marry. Sons could get jobs through education and then pay their bridewealth.

If you have education you can get money anyway to buy land which is why we invest in education rather than land.
Today the warrior hero is the son who goes to the university. Since land is limited a man must get a job for which he need at least a Form Six education.

Hence the education of children confers prestige on the parents. It also makes the descending lineage viable and gives the parents a source of income and security in old age. Although education is a new element in the investment pattern leading to family expansion, its significance to the Gusii derives from the meaning given to cattle and land as means for expansion. The role of employment as a source of wealth is eminently illustrated in the story about Sakawa's prophesy. Sakawa was a famous Gusii prophet living at the end of the 19th century. According to an often told tale he gave a prophecy which foresaw the coming of the Europeans. It had the following content: "Some day there are going to grow toadstools at Getembe which will bear fruit. He who has no son to send to gather fruit will weep". Getembe is the place where Kisii Town is situated. The interpretation is that the mushrooms are the buildings in Kisii Town and the fruits are the jobs available there. Therefore, people say, the parents who have no son to send there to obtain an education and a profitable job are indeed unfortunate.

To a great extent the use of bridewealth follows house property rules. The use of a daughter's bridewealth for educational purposes must still pertain to her siblings of the same house. An innovation started in the 1960s, is that girls also receive secondary and professional education, which is paid for by bridewealth income. If the family receives cows these are continuously sold off, and the money used to pay school fees.

Gusii do not see any contradiction in using bridewealth for education which benefits the sons, giving them a source of income, which in turn can be used for marriage. In a sense the bridewealth is indirectly used for marriage. The use of bridewealth to sponsor a daughter's education, however, is, people agree, against custom. If a daughter succeeds in obtaining a job, her parents calculate that they will recoup their expenses with profit. First, an employed woman will fetch a high brideprice, around 12-15,000 shs. Second, if the parents can persuade her to stay unmarried and work a couple of years, they will then receive most of her income. Third, after marriage she continues to support at least one sibling through school.

Other investments of bridewealth are made when there are no children who are of an age to go to secondary school. Land is sometimes bought, especially if the family has few acres. Such land is the patrimony of the house from which the bridewealth comes. Income from cash crops planted on land bought from bridewealth should be used for the benefit of the members of that particular house. The same applies for business investments in *duka*, *matatu*, maize mill, *hoteli*, etc. Such investments do, however, lend themselves to financial manipulations by the father. Since the father has full control over monetary income as long as the sons are not married, he can use earnings from business or cash crops as he wants. It is much easier to manipulate such income. If a man invests bridewealth in business as a part of

other investments, his wives and sons cannot distinguish the particular income that comes from the bridewealth. Also the father remains as the owner of the business as long as he lives. This was explained by a businessman:

> The money invested in the business is the husband's, but he will use the profit to educate his children. He can use business income for school fees for children from any house he wants because the money is his own. I agree that it is against customary law; it's bad to give bridewealth to half-brothers. But if it is invested in business it can be done. For education it is not as bad to give money from another house as if it is given directly as brideprice. When you use the money to educate half-brothers you don't tell the half-brothers – you say you invested it in the business. The money from the first daughter is entirely the father's .

This new investment opportunity allows a father to obscure the benefits obtained from the investment of that daughter's marriage payment. Hence the strict allocation rules become blurred. In the next generation the strict rules may lose their importance, since bridewealth becomes a gain comparable with other income.

The development was made possible by the customary law which gave the father the right to use the bridewealth from the first daughter of each wife for his own marriage. Instead of using this right in a traditional way more and more fathers have begun to use it for payment of educational fees. Today such redirection of brideprices from marriage has also become customary with bridewealth from subsequent daughters. Although the father may use the first daughter's bridewealth, he has to reach an agreement with the mother about the use of cattle from subsequent marriages. It is my impression that today mothers take more responsibility than fathers for the allocation of marriage cattle into educational fees. Men sometimes waste cattle on "drink" rather than allow their children to use them for school fees.

This process is also facilitated by an imbalance in the ratio of the sexes with a surplus of girls. Such bridewealth can either be used for educational purposes or for further marriages of sons. In addition, if the sons are not old enough to marry, the father can use their youth as an excuse for converting the bridewealth into school fees. Once a boy has been given money for school he cannot subsequently demand bridewealth cows as well.

Expenses for secondary and professional education are high and constitute the heaviest expenditures for peasant farmers who have children of that age. Without bridewealth many families would not be able to obtain the sums necessary to put their children through secondary school.

Conclusion

During the last two decades, a decline in the demand for wives has led to a decrease in the value of bridewealth. The reduction in polygyny is due to a number of factors. Land scarcity has made it difficult for men to accommodate several wives on their farms. There are also avenues for wealth and status open to men other than polygyny. Furthermore a number of other

expenditures are considered more important than bridewealth. As will be shown in the next chapter, marriage has less importance today as a marker of independence and adulthood. These factors combine to produce a decrease in bridewealth value. If this interpretation is correct, it corroborates the applicability of the formalist approach in economic anthropology to this particular aspect of bridewealth, i.e., the fluctuations in value.

The medium in which bridewealth is paid, however, is still largely cattle. The persistence of cattle in bridewealth transfers depends on their capacity, as symbolic currency, for creating descent links. Hence, while fluctuations in the exchange value of bridewealth can be analyzed from an economic point of view, the medium through which bridewealth is effectuated derives from values attached to social status, i.e., signal values (cf. Sansom 1976:156) .

The use of bridewealth for other purposes than marriage is a change in institutional form rather than in the basic principles behind the house-property system. Again, it is possible to see this persistence of norms as dependent on constant reinforcement through competition and as reflecting a more abstract idea of family growth. The house property rules guarantee each house its share of the family wealth, and breaches of the rules guiding allocation of resources engender conflict and competition. Such conflicts may end in serious family quarrels, witchcraft accusations and even murder. Hence the fact that each family member has an incentive to stress the rules reinforces their applicability and persistence.

Furthermore, the Gusii conceive of the family as an entity which grows through its sons. Through the sons a father and mother, in some sense, expand their control over wealth. Today such wealth is found through employment which is facilitated by education. The payment of school fees rather than marriage therefore becomes a logical use of bridewealth. It is noteworthy that the Gusii use bridewealth and monetary income for educational fees to a higher degree than for farm or business investments, a fact which cannot wholly be explained by reference to low profitability.

Notes

[1] Expressed in terms of shillings the value of bridewealth in 1965 was 5,400 shs for Sengera and 3,300 shs for Suneka In 1974 the value was 4000 shs and 2000 shs, respectively. In 1978 the value was 3,600 shs in Sengera and 1,600 shs in Suneka. Thus, in 1965 the bridewealth in Wanjare was three times the average monetary income from farms. If the income from Bassi farms in 1974 (ca 3,000 shs) can be used as a district-wide estimate, the average bridewealth in Suneka was 1,000 shs less than the average income, and the bridewealth in Sengera was 1,000 shs greater than the yearly farm income. In 1978, Bager (1980) estimated the average agricultural income from farms in a Kitutu sublocation to be 4,627 shs. This means that the average income for that year was about one and a half times as much as the average bridewealth in Sengera and almost three times as much as the bridewealth in Suneka. These figures represent only agricultural income and not the earnings from various non-farming activities. Such income is not insubstantial and has increased rather than decreased over the years. Hence, it is safe to conclude that not only has bridewealth

declined in absolute monetary terms, but it has also declined relative to total income.

[2] Due to the limited availability of pasture in Gusii Land it is not surprising that money has to be included in bridewealth payments. Except for large landowners in the settlement schemes, ordinary Gusii farmers do not have grazing available for many heads of cattle.

Chapter 10

Elopement and the Marginalization of Women

Introduction

In the last two decades the marriage system has undergone tremendous changes which have radically altered the position of women in Gusii society. Informal unions are now common form of family arrangement among young adults. This has fundamental consequences for family relationships and for women's access to resources. This chapter explores the emergence of elopement, and cohabitation as a common form of union; the processes underlying these developments; their consequences for female-male relationships; and their effects upon women's social and economic position.

Elopement

1. The increase in elopement

Modern elopements are radically different from the irregular unions of the past. In contrast to the situation about two decades ago, elopement has become the common way of initiating a marriage, and cohabitation over many years is a regular feature. Beginning in the late 1960s elopements started to increase in number, and the period between the initiation of cohabitation and the payment of bridewealth has progressively become longer and longer. In a survey of marital status in my two study areas, 28 percent of peasant women who entered into unions with men during the six year period 1962-68, eloped. Bridewealth payments followed all of these unions within 4 years. Thus 72 percent of all unions in my sample were preceded by the payment of bridewealth. Table 11 illustrates the development towards increased frequency of elopement and postponement of payment. By the period 1981-83 only 14 percent of peasant women entered regular marriages, i.e., into unions preceded or accompanied by bridewealth payment. Thus, in the early 1980s, 86 percent of couples eloped. And after two years, only 28 percent of these had been paid.

Table 11. Incidence of bridewealth payment and elopement per six-year periods from 1957 to 1983. The table summarizes data from both Suneka and Sengera. It shows how many of the initiated cohabitations in each six year period were paid within zero years, how many were paid after one year, two years, etc.

	Years between cohabitation and payment					
Years	0	1	2	3	4	N
1957-62	64 %	73 %	91 %	100 %		30
1963-68	72 %	79 %	93 %	93 %	100 %	28
1969-74	55 %	64 %	68 %	74 %	78 %	35
1975-80	46 %	50 %	52 %	66 %	66 %	48
1981-83	14 %	26 %	28 %			50

By elopement, I mean the act of establishing of a union of cohabitation between a man and an unmarried woman that has not been legitimized by the payment of bridewealth. Elopement and cohabitation are not new phenomena in Gusii society. The verb *kobasa* means 'to choose,' and stands for 'to elope.' A cohabitation is called *kobasiana*, meaning "to stay together without bridewealth having been paid". The antecedents of irregular unions are found in the violent abduction of girls (*gokurura*) by young men who lacked bridewealth with which to marry. Early in this century, such abductions occasionally took place. Both I. Mayer (1975) and R. LeVine & B. LeVine (1966:50-51) observed that elopements with the girl's consent were common in the 1940s and 1950s. The reasons, they argued, were to be found in girls' attempts to avoid being forced into marriages with wealthy old men. Furthermore, the high bridewealth made it difficult for young men to marry and they, as the Gusii say, therefore tried to "get a girl for free".

Until the 1960s it was very rare to find an unmarried adult woman who did not suffer from a physical or psychological defect. When a girl reached about 16 years of age she would soon be married. Although girls eloped with men, they would soon be legally married. Either the man with whom a girl eloped paid, or she returned to her parents. Either she returned voluntarily, or else she was collected by the tribal police within a few months. In the expanding economy of the 1940s and 1950s, where men competed for women and for as many wives as possible, no girl ran the risk of staying unmarried for long.

1. The social and economic character of informal unions

Elopement, contrary to marriage, offers no legal rights for the woman whatsoever. Eloped women are at the mercy of their partners, and their position is thus insecure. A man may at any time expel from his home a woman with whom he has eloped, and never allow her back. Divorce among formally married couples is rare, but, due to the lack of legal sanctions, cohabitations are less stable than marriages.

Herein, I use the term divorce when a legal marital union breaks up through the repayment of bridewealth to the woman's guardians. The break up of a non-paid union I call estrangement.

It is becoming quite common for men who have not paid bridewealth to estrange their partners and the latter have recourse neither in social norms nor in the intervention of kin and affines. Such women's parents and parents-in-law have no socially sanctioned means with which to intervene. Legal authorities like local male elders' councils, the chief, and the assistant chief can only try to convince a man to retain his partner on moral grounds. Local elders' council (*etureti*) are seldom involved in cases of estrangement. As one elder pointed out:

> ...when bridewealth has not been paid, the parents of the lady just take their daughter without involving elders because there is no foundation for a case. There are problems nowadays with elopements and estrangements. *Etureti* elders only handle legal marriages because in elopement cases there have been no go-between and no witnesses, hence there is no foundation. A legal marriage is where there has been bridewealth negotiations, and witnesses of payment.

Non-payment of bridewealth does not at first glance seem to affect the man's control over his companion's person. Day-to-day activities and interaction between partners in non-paid unions are indistinguishable from the actions of married couples. The woman fulfills all the duties expected of a wife: carrying out most agricultural tasks; performing all child care; food processing and cooking; washing clothes and brewing beer for her husband and his friends. Children of an elopement union stay with their mother and biological father without any attempts by her relatives to claim them. The man provides the woman with a house and may help in some agricultural tasks, such as felling trees and fencing. The woman's contributions to her partners welfare are not enforced by any rules of customary law or social norms in the sense that failure to perform them could lead to social pressure or legal action and negociation. Thus, in the absence of socially sanctioned obligations, Gusii women in informal unions, are forced to make choices entailing the allocation to their partners of their own labor, domestic and sexual services.

It is only in cases of conflict that the non-legal character of elopement unions becomes evident. If a man wants to expel his partner he can do so with impunity. When bridewealth is not paid there is no marriage, and hence there are no grounds for negotiation. If an eloped woman leaves her partner, she takes her children with her, he has no legal claim to them whatsoever.

An eloped woman is free to leave her partner's home at any time, and the man cannot obtain formal intervention from any social institutions nor from her parents. Without bridewealth payment, a man cannot enlist any outside support for his claim to the proceeds of his partner's production and must rely on his own ability to coerce or to win her volunatry transfer of such proceeds to him. Further, if he wants to punish her by sending her home, her parents will usually not enter into any negotiations concerning the couple's reconciliation until bridewealth has been paid.

Young men between 20 and 25 years old are not especially worried about this aspect of elopement but prefer the freedom to live with young women and dismiss them at will. Although by no means the rule, many young men elope with women whom they enjoy sexually for a year and then abandon. Some even have several women in their homestead simultaneously, only to estrange them one by one after a short time. Many of these men also beget children by their temporary partners but are not interested in obtaining legal paternity.

It is not until a man decides to establish a regular family that his marital status becomes a concern to him. After having one or two sons together with a partner with whom he has decided to live, he may find it difficult to exercize authority over her. When conflicts arise he cannot send her home and simultaneously retain the children. Nor will her parents or brothers agree to admonish her until such a man has paid bridewealth.

Women constantly expressed to me the dissatisfaction, stress and fear they felt for the insecurity of non-bridewealth unions. They lived under the constant threat of expulsion, social disgrace and destitution:

> When bridewealth is not paid the wife tends to feel the husband is not taking her seriously. She fears that he will marry another woman and then she will be kicked out. Such women feel they are on a contract basis as long as bridewealth is not paid.

> I was in perpetual fear for 10 years because I had no children...and my husband had not paid bridewealth. When bridewealth is paid a woman cannot be easily expelled, for the husband is afraid he will lose the bridewealth, that it will not be refunded.

As long as a Gusii man has not paid bridewealth, his partner is vulnerable to exploitation and mistreatment to a much higher degree than is the case in legal unions. A woman staying in a non-paid union has no attractive alternatives. Leaving the man will result in economic insecurity and poverty, and will expose her to her parents' anger at her elopement, the community's branding of her as "a loose woman" and her ostracism by its members. The women in S. LeVine's (1979) study also expressed considerable concern and stress over the fact that their spouses had not paid bridewealth. Such Gusii women are legitimate members neither of their present families, nor of their natal families. The illegitimacy of eloped women therefore underscores the fact that unmarried Gusii women have no culturally accepted identity.

Table 12. Rate of estrangement in Sengera and Suneka. The table is based on the number of informal unions entered into by 36 men between 1975 and 1984. These men cohabited with 53 different women during this time period of which 27 were estranged while the remaning married their partners.

Number of men	Number of eloping women	of which estranged	rate of estrangement
36	53	27	51 %

The dissolution of informal unions is mostly initiated by men. Since women have no source of economic security and social respectability outside marriage they value stable unions and actively seek to avoid the breakdown of any type of female-male unions, whether legal or not (Hakansson 1985). With the pattern of bridewealth payments changing towards frequent elopement and postponement of bridewealth transfers, women's access to land and other resources has become insecure.

2. Estrangement and single mothers

With the increase in elopements, the number of single mothers in Gusii society is also increasing. Concomitant with the rise in elopements is an increase in the number of women who are permanently expelled by men. I have called such expulsions in irregular unions, estrangements. It has not been possible to arrive at any definite rates of estrangement but both my Gusii informants, and Roman Catholic missionaries living in Gusii Land since the 1960s agree that numbers of elopements resulting in estrangement have drastically increased.

Table 13. Number of estrangements made by men ages 25-30 years old during three 10 year periods. Men from both study areas are included.

Year	No. of men	No. of estranged women.	No. of estrangements per man
1951-60	11	5	0.4
1961-70	10	10	1.0
1971-80	15	18	1.2

Although exact rates are difficult to calculate, I have obtained a rate of estrangements over time from my statistical material. In Table 13, I have calculated the number of estrangements of different women per man in in both study areas. The sample has been arranged as the number of estrangements per man during three 10 year periods. Since most estrangements take place when men are around 25-30 years of age I have arranged the sample to include only men who were around 25-30 years old in the different ten year periods and then calculated how many women were estranged by each of these men.

3. Economic marginalization

Today, the consequences for women of estrangement are radically different depending on whether or not the estranged woman has children. If she has no children she will go back to her parents and the chances are good that she will find another man with whom to elope, or more rarely, marry. If she has children, particularly sons, it will be very difficult for her to find another

partner. Men are very reluctant to accept custody for other men's biological children. A woman with one or more daughters stands a greater chance of finding a man who is willing to accept her and her children since, as the Gusii say, "daughters soon leave the home". But sons are another matter. They will stay on the man's land and inherit, and men prefer that their own sons inherit. Many women are estranged after one or two years of cohabitation and by then may have at least one son.

The magnitude of the problem can be ascertained from the figures in Table 12. Of the 53 women who entered into cohabitations between 1975 and 1984, 27 were estranged. These figures do not take into account the fact that the fate of the recorded elopements in the beginning of the time period can be ascertained, while those entered into in the 1980s are new cohabitations, which may or may not dissolve soon. Not all these women have borne children in their liaisons and are thus still eligible partners for elopement and marriage.

In rarer cases, the male partner dies before paying bridewealth. Twenty years ago such an event would probably have led to bridewealth being furnished by his brothers in order to secure surviving sons for the man. Today, it is common for brothers of the deceased to either chase the surviving eloped partner and her children completely off the farm, or to allocate to her a house with a small plot on the dead man's land. Any property of value such as livestock is also taken from her. Since she was never legally married, her sons are not legal heirs, and, hence, she cannot control property on their behalf.

Finally, a number of irregular unions are today established by very young men and women. A boy of 18, who is not going to school, may decide to take his girlfriend home. After a year or two he may typically, tire of her and may want to go outside the district in search of work. Young men normally do not plan any serious marriages at that age, but elope in order to have easy access to sexual intercourse and to feel grown up by having a "wife". This often leads to estrangement of the woman and her children. The estranged women will be regarded as a loose woman, a harlot, or *omokungi omotanga tangi*, and will have difficulties finding a home providing future security and subsistence.

After estrangement women normally go back to their parents home where they stay for some time. They have to obtain most of their subsistence from sources other than their natal family's farm. They are not given plots of their own but share land with their mothers whom they assist in cultivation. The estranged women to whom I talked complained much about their poverty, especially about lack of money with which to buy soap or clothes for the children, or to pay hospital fees when a child fell ill. In order to obtain at least some money, most of these women are engaged in some income-generating activity other than farming. However, only a few low paying alternatives are available to women with little or no education. They may work intermittently as farm laborers, engage in brewing of beer, distilling of *changaa*, and buying and selling of bananas, maize, beans, and other crops at the market place (Håkansson 1986).

While estranged women can and do try to stay with their brothers and parents, this is, at best, only a temporary solution. There is considerable tension between sisters and the wives of their brothers concerning competition for resources. Such conflicts often results in witchcraft and poisoning accusations. One estranged woman now living on a piece of rented land explains her case:

> After leaving the man I went to my parents and stayed there for three months. I have one child and my mother has several so there were many to take care of and my father is unable. I thought it wise to leave because quarrels arose between me and my brothers about food. My brother's children fought with mine about food. His children said that my child had eaten all, leaving nothing to them. I have five brothers who share five acres of land which is too little for me to also share.

Furthermore, the Gusii have a taboo against daughters "growing gray hair" in their natal home. A daughter's death at her natal home is believed to afflict her family with magical danger.

The conflicts emerging after a period of residence with a brother or her parents usually promts an estranged woman move out of her natal home. Having their children to care for as well, women without employment survive on the verge of poverty. Land is too expensive to buy and renting is costly for a woman with children. The market price today in Kisii district exceeds 10,000 shs (ca US $ 650) per acre. Hence, forsaken, non-employed women have little possibility of obtaining such land through the meager income they gain from selling food crops on the market. Such activity earns them only 100-200 shs per month. The beer brewing that most single women engage in is more profitable, giving an estimated income of 100-200 shs per week.

A single woman who rents two acres of land pays 700-800 shs per year in rent. In addition, for ca. 1,200 shs per year, single women often rent a room in a rental building made of mud walls and grass thatched roof. This is a considerable sum for a mother who has to support her children, pay school expenditures, buy clothes, pay hospital fees and medicine, etc.

Single women express their fear of being robbed and cheated by men and dare not start business ventures on their own. This fear derives from the fact that, according to customary law, a woman cannot own property in her own right: she can do so only as a wife and trustee for sons. A single woman thus feels her property is unsafe because men may not respect her claim to ownership.

The only means available to women with neither education nor salaried employment, to escape the poverty and social alienation of being a single mother in Gusii Land are to marry old men or to enter a daughter-in-law marriage. In a study that I made of estranged women, one women entered into a daughter-in-law marriage after one year at her parents' home, and another was married to an old man as a second wife two years after estrangement (Håkansson 1986).

Old monogamous men are prepared to pay bridewealth and to accept any children that the wife may bring with her to the marriage. When bridewealth

has been paid these become the man's children. The second alternative is to become the daughter-in-law of a woman who has no sons. This form of marriage is increasing in Gusii Land due to the growth in the number of single mothers who see it as an alternative way of obtaining economic security and social acceptance.

4. Social marginalization

Behind their backs, single women are called harlots (*omotayayi*) or women who move from place to place (*omotangatangi*), epithets which are not removed until such women are either properly married or permanently cohabiting with a man. If married with bridewealth, it is also possible for a woman to live physically separate from a man. Once she is legally attached to a man, she is established in the only possible status of an adult woman according to Gusii norms. An *omokungi omotangatangi*, however, is considered an abnormal person without any social attachment. The idea that unmarried single women move from place to place is an expression in spatial terms of their "looseness" of the fact that they are not part of the social fabric. A male parallel is the *riochi*, the wanderer. He is a man who has not married and who will die "far away" "along the road side" without any wife or descendants. A married, however, man will never become a *riochi*, even if he lives outside Gusii Land.

Thus, single women feel uncomfortable and "ashamed" and are afraid of gossip about their status as single estranged adults. Women living alone claim they are not respected, and this lack of respect is manifest in several ways. Married and cohabiting women are designated and greeted as "wife" *omokungi*, of a certain man, which is a sign of respect. Single women complain that they are only greeted as a daughter or sister, i.e., an unmarried woman of low status. Single women staying alone are favorite topics of discussion, including speculation about their character, life, personal shortcomings and why they live as they do. One of my informants claimed that she was "overlooked by the community and not respected by other women. I am regarded as a criminal, a bad woman and *omotangatangi* despite the fact that I always try to be nice and of good conduct". Another aspect of disrespect is sexual harrassment by men who regard single women as "loose" and as semi-prostitutes. As a woman staying at Sengera market expressed it: "If bridewealth is not paid chances of rape are very high and if you receive male friends, people think you are having sex with them and are being paid for it".

The only protection a woman has against rape is her brothers or her husband. Gusii customary law does not recognize rape as a crime against a woman, but rather as against her brothers, father or husband. A single woman may be raped without any interference from anyone. In the colonial tribunal courts rape cases were filed as adulteries, i.e., a crime against the husband.

Single women are also the victims of other abuse and "disrespect" from which married status ensures some protection, such as verbal abuse, demands

for money or food. One woman living on her own was denied access through a neighbor's land in order to reach the river. If she had a husband, she says, she would be able to pass on his land to reach the river.

Marriage and elopement: choice and constraints

1. Wife-givers

The term wife-giver is here used to denote a collective of persons who allocate bridewealth received for a woman under their guardianship. These are normally: the father, who is the head of the family, and who receives the bridewealth and who may within, limits decide about its use; the brothers, who are entitled to use the bridewealth; and the mother who in the capacity of manager of the house estate indirectly influence the use of the bridewealth. Except for the bridewealth received for the first daughter, widows, but also old wives, have a great degree of independence in deciding about allocation of bridewealth belonging to their house. The structure of the family and its jural aspects have been described in earlier chapters (see chapters 2 & 8).

The wife-givers traditionally entered into a bridewealth transaction in order to gain cattle which could be used for another marriage by a son, the father, or even the mother (the latter can enter a daughter-in-law marriage with cattle from her daughters' marriages). Today wife-givers still desire cattle or money when their daughters leave to cohabit with a man. Two aspects of the transaction has changed, however. Wife-givers are not in the position to insist on payment before the daughter leaves the family, and the bridewealth received is today usually not used for marriage but for other investments such as school fees, land purchases and businesses.

A number of factors have entered into the wife-givers' opportunity situation, which make it difficult for them to insist on immediate bridewealth payments. First, during the 1960s changes in national law that granted women majority, made it impossible to take legal action against a man who eloped with a daughter. Likewise, police assistance to retrieve runaway daughters cannot be obtained. Second, increasing land shortage together with the system of land tenure, has produced subsistence problems for many families. Third, the strategies of men who are unwilling to pay before cohabitation affect the wife-givers' alternatives.

Many informants blamed elopement on land shortage and economic problems. Some wife-givers, notably brothers and fathers, prefer that a sister/daughter elopes with a man rather than staying at home and using the family's economic resources. Some actually encourage daughters to leave and find a man who is willing to give them land to cultivate. The following quotes are typical of this opinion:

If a daughter goes you lose a member who has been using limited family resources. Therefore people can wait several years for the bridewealth.
Or:
Parents are more concerned that their daughter stay in peace with her partner rather

than to claim bridewealth. Nowadays there are so many ladies who want to get married. It is a way to get rid of the daughter. Because of land shortage parents want daughters to leave and find subsistence at another place. Hence they will not claim bridewealth.

This view is still confined to a minority of wife-givers but as a strategy, we shall soon see, that it has important implications. However, most parents do feel upset and cheated of bridewealth when a daughter elopes.

An outsider's first impression is that the land scarcity situation makes daughters a cost rather than an asset. Population pressure on a shrinking land base has had profound effects on many aspects of Gusii life. One effect is that many smallholders experience land shortage as the cause of their inability to produce enough susbsistence for its members. However, several recent agricultural studies have shown that low productivity is often due to shortage of labor rather than land (Lanting 1977). The labor shortage is to a great extent caused by the loss of children's labor. Today, most children go to school and thereby leave the wife to carry the burden of agricultural labor and household chores. While putting some labor into agriculture, husbands often have off farm-jobs or refuse to do agricultural work, leaving the wife with little assistance in production.

In this case one might draw the conclusion that daughters who do not attend school should be a welcome contribution to the farm labor force rather than being seen as a liability. The answer to this problem is difficult to provide for a number of reasons. I have not found any data enabling a calculation of the contribution of a teen-age daughter to the farm income which could be compared with her use of family resources. Most households have to supplement their food consumption with purchased food. The purchase could possibly have been offset by a daughter's labor contribution.

The solution to the problem may lie in the fact that it is mostly fathers and brothers who express concern about the cost of daughters/sisters staying at home, not their mothers. Most families are involved in the market sector to a high degree through wage labor, marketing of food produce, and the sale of cash crops. The income from these activities has to meet a number of household expenditures, such as supplemental food and daily household items, school fees, hospital costs, housing, and agricultural inputs. In addition, such income also has to meet the husband's personal expenditures, e.g., beer, and such luxury articles as radios.

Many of these costs have to be defrayed by money earned or controlled by men, who consequently regard daughters as expensive. The monetary costs of upbringing and insufficient subsistence production impel many wife-givers to see daughters as an expense and a burden rather than an asset on the farm. Although, in strictly agricultural economic terms, farms may be able to support all household members who contribute labor, the character of the house property system affects the value and costs of daughters. Sons and their wives form separate legal and economic units to the extent that the son's wife must cultivate her husband's land, producing food and surplus income for him. Except for the first years before she has given birth to one or two

children, as long as children are few and very small, sons' wives can produce enough subsistence on their plots to feed themselves and their husbands.

When sons are married any of their sisters who are still at home will be supported by the field on which the mother works. Monetary outlays for all household expenditures must come from this field and/or from the father's or brothers' resources. Consequently, the men in turn experience the daughter/sister as a burden. To sum up, fathers, brothers and brothers' wives disregard the possible contribution of a daughter/sister to subsistence production and feel that she is a strain on already scarce monetary income.

The propensity of Gusii girls to elope, and the parents' difficulties in controlling them is not a new development. R. LeVine & R. LeVine (1966:175) observed already in the mid 1950s:

> ...the problem of controlling the behavior of contemporary adolescent girls is a difficult one for Nyansongo parents. The basis of the difficulty is that the girl is oriented toward young men who give her gifts and flatter her, expecting in return that she will yield sexually or even elope with one of them. Parents, on the other hand, view an adolecent girl as a family member who must of necessity leave home for marriage and who can at least reimburse the parents who took the trouble to raise her, with a handsome bridewealth in cattle. What they fear most is her running off with a reckless young man who has no cattle and secondly, her becoming pregnant or gaining a reputation as a "slut" both of which tend to make her undesirable as a wife...If the father does not act fast enough in arranging a proper marriage to someone she will agree to live with, she may resolve the conflict by eloping with a man of her choice who pays no cattle to her father.

The reasons behind this behavior will partly be explained in the section on women's strategies. This description generally holds true today, with the difference that it has become increasingly difficult for parents to find a man who is willing to pay bridewealth before cohabitation.

Once a girl has eloped there is very little the parents can do to retrieve her. If, as is often the case, she becomes pregnant, her parents do not want her back. First, a daughter with children is considered a financial liability: "Getting a daughter back is a burden especially if she has children"; "Although I remind my daughter's spouse about the bridewealth I do not want to claim her back because if he expels her and she comes back with the children it will be a burden". If she cannot support herself, her brothers or parents will have to pay for her and her children's upkeep. Brothers are seldom willing to take care of sisters who have been expelled by men, both because of the financial burden and because of conflict with their wives, who thinks the husbands' sisters are using resources which are rightfully theirs.

Hence, when a daughter has eloped parents will wait for several years until the man finally pays something to legitimize the children. They are not likely to press for bridewealth because that may, especially during the first years of the cohabitation, provoke the man to estrange their daughter. Rather, they wait until their daughter has given birth to several sons which her spouse will not risk losing. Then they will send messages to his father and to him that they would like bridewealth to be paid.

Wife-takers today denote the man who enters into a conjugal union and his parents, because of the rights and obligations existing between a wife and her husband's mother and father. Although nowadays most men are responsible for paying their own bridewealth, fathers should conduct bridewealth negotiations for their sons.

The fact that bridewealth is used for other purposes than marriages has disrupted the earlier circulatory system in which cows obtained for a daughter went out for a new wife. Hence, most men find that they must rely on their own sources of income for bridewealth. Before the 1970s, those men who had no sisters whose bridewealth they could use resorted to elopement. Nowadays most men have to use their own income and they are reluctant to do so, especially if they can obtain "a wife for free". Even if they have received cows for a sister and have these cows on the farm, they still prefer to postpone payment for some years.

It is in the interest of men to be able to postpone payment. Men benefit from the possibility of elopement and its association with low risk. In this way they gain an opportunity to select a wife who suits them. As one of my informants expressed it: "The idea is to test women before paying. A woman must obey the husband's directives to wash clothes, cook, be quick in doing things, and not to disobey. She must take good care of the animals, and be hard working in the fields. She should not always be visiting her parents" Another informant who had recently eloped stated his reasons in the following way:

> If she proves worthy I will consider paying bridewealth. But I first want to know her character, if she is lazy or hard working, if she is dirty or cleans the house, if she is a witch, if she is harsh or kind, if she receives visitors warmly or not. She may be dirty in the way of baths, not cleaning the house or beddings, and if she will wash my young brothers and sisters while she has no kids of her own. When I have learned her character fully I may pay, but if I don't like her I will chase her off.

Once bridewealth is paid divorce is extremely difficult to obtain and hence it is important to know that a prospective wife has desirable qualities before paying. In addition, polygyny has declined with the diminishing land available per family, and the cost of having many children has increased. Therefore, a man today is not likely to be able to accomodate a second wife should the first prove to be a problem.

A man with no other regular income than from farming is very dependent on his wife's productivity. As a producer of wealth, a woman enters conspicuously into a man's calculations when paying bridewealth. Women complain that when husbands have paid bridewealth, they want wives to reimburse their outlays through hard work in the fields that produce crops for sale.

Table 14. Difference in time between non-employed and employed men in paying bridewealth for non-employed women, 1970-1980. Non-employed men pay bridewealth within one year to a significantly higher degree than employed men. Both study areas.

Occupation	Time between elopment and payment		Total
	< 1 year	> 1 year	
Employed	6	12	18
Non-employed	43	16	59
Total	49	28	
$p = < 0.01$			
$t = -3.214$			

After some years cohabiting with a woman and getting children, men realize that in order to ensure future stability of the union, rights in children and full authority over the woman they must pay bridewealth:

I felt that paying could help me progress. A woman takes care of the home and the wealth. If you do not pay a woman will not bother to make progress or take care of wealth. I hope that if I pay the wife will be more cooperative than she is now.

If there are problems and bridewealth is not paid you cannot go to her parents because they will ask you to pay first. She may leave you alone at home and since she is the care-taker of the home things might get spoiled. If she disappears with your children you go back to a young stage. It is very bad to die without a wife and children.

The greater control over a woman's labor power obtained through bridewealth payment is especially important to men without significant income from off-farm activities. This is illustrated in Table 14 which demonstrates that among men who eloped with non-employed women, those who earn a regular salary postpone payment much longer than peasants. Taken together, statistics from the two study communities show that non-employed men are more likely to pay within one year after elopement than those with regular employment. An explanation for this may be that men with off-farm income are less dependent on the wives' cooperation in agricultural production, and therefore have less incentive to pay in order to secure rights in her labor power.

3. Women's strategies

Previous sections of this chapter have demonstrated that elopement is risky for women; that living in these non-paid unions is fraught with stress for women and is perceived as inferior to legal marriage. It would therefore be reasonable to expect women not to elope when they are aware of the considerable dangers involved in doing so. Why then, do they not wait at home until a husband pays bridewealth? The reason is to be found in the way of life open to girls aged 16-17 years old. A young married peasant woman aptly summarized some of the reasons behind elopements.

Sometimes a girl can be staying at her parents' place and a boy doesn't have cows and she knows she can't stay at her parent's place so she just goes. She wants to get married. More people elope today than when my parents were young because today people don't have as many cows or as much land as before, so they can't pay. People are many today. Those men who have incomes are deciding to invest in other things before investing in a wife, so the woman just elopes. Then if she gets two children with him it becomes hard for her to leave because it will be difficult to find another husband when she has children. A girl staying with her parents might become pregnant and decide to elope to avoid problems at home. A woman with children at her parent's home is usually despised. If the child is sick, there will be no money to take it to hospital. If you have a husband he will look for the money. The parents will not have enough money to support both their children and their grandchildren.

First, she points out that a girl cannot stay at her parents' home and that she wants to get married. The impossibility of staying at her parent's home and her goal to get married as soon as possible are to be understood in relation to cultural values regarding women. Some 30 to 40 years ago girls were circumsized by the age of 10-11 (P. Mayer 1953:26). After circumcision and puberty they became marriageable women, *abasubatii*, and as women they were supposed to get married as soon as possible. Hence when reaching adult age, daughters, if not given any other meaningful occupation, aspire for the only avenue open to them, namely marriage.

Today, circumcision is undertaken at the age of seven or eight[1] and most girls are going to school at least until they reach puberty. If they leave school after completing the seven years of primary school they are left in the awkward position of being an unmarried woman in their natal home. Thus, at that stage, they want to marry. Girls and young women whose parents pay their fees for secondary school and professional training seldom elope. Going to school is regarded as a meaningful occupation for them and they are explicitly thankful towards their parents and siblings who have contributed to the high costs of education and training. Thus young women view secondary school attendance as incompatible with marriage.

However, many girls who are forced to leave school after primary school feel that they are not wanted in their natal home and that there is no reason for them to remain. The costs for school fees often have to be met by the father or by an employed sibling since non-employed mothers often lack control over enough cash to pay the high fees. In one case a father was unwilling to pay his daughter's school fees and tried to withhold the index cards necessary for taking the final exam at primary school, the results of which govern admittance to high school. His brothers convinced him to give his daughter the card, and she passed the exam and was accepted to a high school. Then the father refused to pay the fees wherefore the daughter eloped soon afterwards. Her sister did likewise when the father refused to pay her fees as well.

As I have already pointed out, some brothers and fathers directly suggest that women leave the home without bridewealth payment. These cases are in the minority, but nevertheless, account for some elopements. When staying at home daughters are either confined to their mothers' fields or are not given

any land to cultivate themselves. They are left to care for young brothers and sisters, and to carry water, cook, wash and carry out other simple household tasks.

But, as long as they stay at home, their upkeep, money for clothes, hospital fees, soap, etc., has to be contributed from their brothers' income, which sooner or later causes conflict. As one young woman living at her natal home puts it: "If I lack some money and have to ask my brothers they can refuse and say, you should not even be here. You should be married". Indeed poverty among these women is common since daughters staying at home are the last to receive a share of the limited cash resources available. "Staying at home is a problem, because you miss everything. You miss food, soap, etc. If there are other people in the house there will not be enough food". Even in homesteads where parents would like the daughter to stay home rather than elope, such arrangements often generate conflicts with brothers' wives who feel they are competing with them for limited resources, and unmarried daughters are therefore forced to leave their natal homes.

During the 1950s, chances were great that a man would soon appear who wanted to marry them with bridewealth, even after elopement. R. LeVine & B. LeVine observed in 1957 that an eloped girl whose partner did not pay bridewealth "may leave him after a few months or years to live with another man who promises her eventual legitimacy or to marry one selected by her father on the basis of his ability to make the bridewealth transfer immediately" (1966:50f). Ten years later Nerlove describes the situation in the same community: "The daughter who has eloped and then comes back to her natal home usually stays at the behest of her family, returning to the home of her 'husband' only upon payment of bridewealth" (1969: 52). This indicates that at that time it had become more difficult for parents to find men willing to pay bridewealth immediately.

Today few men are willing to pay before cohabitation. Hence, a non-employed young woman who does not elope will have to stay at her parents' home for a long time. In such a case her position may entail conflict with her sisters-in-law and brothers who may tell her to leave on the grounds that she has no customary rights to remain. She will lack money and lack fullfilment of those goals which she had been told throughout her life to pursue.

From this vantage point it is easier to understand why a girl elopes. By doing so, at least she will get access to land and will gain some independence in her own productive activities. She can hope that some day the man will pay bridewealth for her and give her permanent rights and wifely status. Even if bridewealth is not paid, she will still be regarded as a wife in an everyday context. She will be greeted as the wife of so and so rather than as *omosieke*, daughter and unmarried girl, thereby giving the woman at least a semblance of respectability and some prestige.

Peasant women who have eloped employ different strategies to ensure payment of bridewealth. During the first years of the union, the woman usually behaves in a way which satisfies the husband and which she hopes will induce him to pay. This entails hard work, being obedient, polite and other

characteristics of a legitimate wife. In addition some women attempt to pay their own bridewealth either by saving livestock or by borrowing money. They run the risk that the man will expropriate the cows and the money and use it for other things. Usually though, such an effort by the woman to save up for her own bridewealth is in agreement with the husband's wishes. Eloped women also nurture the good will of her partner's parents, brothers and uncles in order to obtain their aid in convincing him to pay. The extent to which this strategy is successful is impossible to ascertain but if the elders like the woman they will normally put some pressure on the man to pay. Since respect for parents is still high in Gusii Land, such pressure probably does have the desired results. After a woman has given birth to one or two sons she is more secure in her position. A man reaching the age of 30 usually desires to keep sons and to establish a family. Hence he must pay bridewealth. After giving birth to one or two sons the woman may start to complain to him about the bridewealth and her brothers may visit often to ask about the cows.

Women whose bridewealth is not paid are reluctant workers and caretakers of the farm and business. Without security of marriage they are less inclined to produce surplus crops for sale than when bridewealth is paid. Since they may be expelled at any time they are not interested in investing in the farm. "When bridewealth is not paid you will be working for Mother-in-law for free", as some express it.

It is common that eloped women whose partners own small stores or tea houses which they assist in supervising take money and goods to their parents. They do this to create some good will with their parents making them more amenable to recive their daughters in case they have to return to the natal home.

Conclusion

Elopement as the dominant way of initiating marriage has not arisen as a response to changes in the rights and obligations attached to the social statuses affected by bridewealth. On the contrary, the reasons for the persistence of the jural aspects of bridewealth is to be found in their applicability to an altered social and economic situation.

The decreased value of women's labor to men and the decreased political and social value of polygyny has lessened the demand for wives. At the same time, land shortage and intra-family competition for resources has put pressure on girls to leave their homes and find husbands or male partners. These processes have combined to create a situation where men can obtain women "for free". It is thereby possible for them to utilize the traditional values attached to bridewealth to escape their obligation of giving rights to land to a woman with whom they are living.

The emergence of land as property of individual men and its incorporation into the house property has put women at a disadvantaged position, in which they must enter into exploitative relationships without any social and economic security in exchange. Women cohabit on their own volition since they have no alternative social or economic status.

Two decades ago, women were still very likely to marry soon after puberty and the issue of their access to resources was not problematic. However, the current proliferation of elopement unions and the consequent growth in the number of single mothers are creating a truly marginal population in the economic and social sense. Since their natal families do not acknowledge them as members and few men are likely to pay bridewealth for them, the children of these women are forming a new category of persons, those without a lineage. Swantz (1985:87) describes a similar development among the Chagga of Tanzania where women also aquire land rights through marriage. She points out that today children are more a burden than an asset, and thus brothers are reluctant to care for unmarried sisters who have children.

The legal norms of bridewealth are advantageous to those who control resources, i.e., men and married women. By stressing the legal function of bridewealth, men need not commit resources to women without first assuring themselves of the women's "suitability". Since the absence of bridewealth leaves the elopement union completely outside the framework of effective social control and legal intervention, men are free to "test women" before paying. Hence, men are not likely to encourage any change in the legal principles governing marriage to give women greater security in access to land and other resources without marriage payment.

Furthermore, within the cultural framework, few women conceive of an alternative state of affairs because as soon as bridewealth is paid their status is validated and they gain a comparatively secure position as a wife and mother. Married women also have an interest in stressing bridewealth as a legitimizer of marriage. Wives and sons use absence of bridewealth in order to oust any women with whom their husbands and fathers elope. Such women compete for resources and pose a threat to the legally established household. The same use of bridewealth as a criterion for inheritance is manifested when a man dies before paying bridewealth for a partner. Then his brothers are likely to expel her and her children. Thus, the rights and obligations affected by the transfer of bridewealth are constantly reinforced through competition for resources.

Behind these legal concepts lies a model of society and its reproduction through the transfer of cows. The specific allocation of rights in resources within the family is connected with the role of bridewealth as constructing descent and the resources as nourishment for the growth of the family. To allow access to land for women and men without bridewealth payment would contradict the very basis of how Gusii conceive the order of their society. Not only does bridewealth reproduce a specific model of societal arrangements, the jural principles connected with it are constantly reinforced since people can use them to obtain desired values.

Notes

[1] A lowering of circumcision age has also taken place among the Kuria, who are neighbors to the Gusii. Today, many girls are cicumcised at the age of six or eight making them marriageable before puberty. Tobisson (1986) attributes this change to an increasing demand for female labor and a desire by men to establish their own families as soon as possible. Cash crops and available land for their cultivation created incentives for men to obtain plural wives as soon as possible. Fathers tend to offer their daughters in marriage at progressively earlier ages in order to obtain bridewealth payments to be used for more wives. Since circumcision is necessary before a girl can get married, it is undertaken when girls have not yet reached puberty. I do not think that this is the reason behing the lowering of circumcision age among the Gusii since, to my knowledge, child marriages did not occur during this century.

Chapter 11

Bridewealth and Marriage Among the Employed

Introduction

This chapter examines the role of bridewealth among the wealthy and more Westernized Gusii. The meaning and use of marriage payments diverge from those current among the poor farmers, and from the the basic principles of Gusii culture. The emphasis on the monetary income of women is strong; the relationship between a couple and the wife's natal family is changing from the Gusii norm. At the same time, to cover deviations from their ideals, the Gusii constantly invoke what they term "tradition" in support of bridewealth custom.

The changing use and meaning of bridewealth

1. The economic value of employed women

Since the 1960s an increasing number of women have received secondary education, professional training, and employment. They are still a small minority, however. Although most parents invest in their daughters' education through the primary level, few bother investing in a secondary education for them. The bridewealth paid for employed women is much higher than for non-employed women. In addition, fewer elope, and the time between cohabitation and payment is shorter.

Table 15. Composition of bridewealth transfers for employed women.

Years	Composition of bridewealth			
	Money	Money/Cattle	Cattle	Total
1969 – 74	2 (25%)	5 (63%)	1 (12%)	8
1975 – 80	15 (50%)	11 (37%)	4 (13%)	30
1981 – 83	6 (40%)	6 (40%)	3 (20%)	15

As can be seen in Figure 9 (pg), the average bridewealth paid for employed women has increased in relation to that paid for non-employed. The bride-

wealth paid for both categories of women was similar in 1965, but the value of payments involving employed women increased until 1976, while there was a drastic decline in the value of bridewealth paid for the non-employed. The average bridewealth paid for employed women in 1982 and 1983 was equivalent to the value of 15 cows, or 12,000 shs, while the value of payments for non-employed women was three cows, or 2,400 shs. In addition, during the periods 1975-80 and 1981-83, the majority of bridewealth payments for employed women were made in cash only, or with livestock representing only a small fraction of the monetary value (see Table 15). Over half of the payments for non-employed women during 1975-83 were completely made up of livestock. In comparison, only a fifth, or less, of the employed women fetched payments made up of only cattle.

Table 16a. Incidence of bridewealth payment for non-employed and employed women entering cohabitations and marriages during 1975-80. Bridewealth paid or not paid at onset of cohabitation. Source: General surveys in Sengera and Suneka, and Survey of employed women.

Bridewealth	Non-employed	Employed	Total
Paid	23	24	47
Not paid	27	20	47
Total	50	44	94
$P = > 0.05$			
$t = -8.821$			

A further difference between employed and non-employed women is that the former are less inclined to elope, and if they do so, bridewealth is paid within a shorter period (Tables 16 b & c and 17 a & b, $p = < 0.05$). During the first six years, 1975-80, there is no significant difference in the rate of elopement between employed and non-employed women[1]. However, the difference in the duration of cohabitation before payment during this period is highly significant ($p < 0.05$). The portion of non-employed women who eloped was 57 percent. After four years, bridewealth had been paid for 66 percent of all non-employed women who had entered into unions during this six year period. Among the employed, 45 percent had eloped, but after four, bridewealth had been paid for 84 percent of these latter unions.

Table 16b. Incidence of bridewealth payments for non-employed and employed women two years after cohabitations and marriages entered during 1975-80. Source: See Table 16a.

Bridewealth	Non-employed	Employed	Total
Paid	26	35	61
Not paid	24	9	34
Total	50	44	94
$p = < 0.05$			
$t = -2.884$			

This difference is exacerbated in the period 1981-83 when 35 percent of the employed eloped, as compared with 86 percent of the non-employed. After two years only 28 percent of the non-employed were paid for, while 70 percent of the employed had their bridewealth paid.

Table 16c. Incidence of bridewealth payments for non-employed and employed women four years after cohabitations and marriages entered during 1975-80. Source: See Table 16a.

Bridewealth	Non-employed	Employed	Total
Paid	33	37	70
Not paid	17	7	24
Total	50	44	94
$p = < 0.05$			
$t = -2.030$			

These differences in bridewealth payments reflect changes which are emerging among the employed and wealthy farmers in the social and economic goals of wife-givers and wife-takers, as well as in women's status, and their control over resources. First, bridewealth is seen by wife-givers as compensation for the loss of the daughter's current and future earning capacity and for their expenditure on her education. Second, employed women are unwilling to elope and have the means to put pressure on their husbands to pay. Third, employed women are in high demand by employed men, who are therefore willing to pay a higher bridewealth, and to pay sooner, in order to secure their uxorial rights, as well as to please the wife.

Table 17a. Incidence of bridewealth payments for non-employed and employed women entering cohabitations and marriages during 1980-83. Bridewealth paid or not paid at the onset of cohabitation. Source: See Table 16a.

Bridewealth	Non-employed	Employed	Total
Paid	5	13	18
Not paid	30	7	37
Total	35	20	55
$p = < 0.05$			
$t = -4.271$			

Table 17b. Incidence of bridewealth payments for non-employed and employed women two years after entering cohabitations and marriages during 1980-83. Source: See Table 16a.

Bridewealth	Non-employed	Employed	Total
Paid	10	14	24
Not paid	25	6	31
Total	35	20	55
$p = < 0.05$			
$t = -3.195$			

Those wife-givers with employed daughters face a completely different situation from those with non-employed daughters. An employed daughter is an asset since most of her salary while she lives at home, goes to her parents and siblings. Therefore parents wish an employed daughter to remain single for two to three years after commencing work in order to "help her parents". Parents of employed daughters who elope are especially bitter and irate about their daughters robbing them of bridewealth, which they feel entitled to as compensation for the outlay on their daughters' training. One representative statement by a ca. 55 year old, male, wealthy, employed farmer, is sufficient to illustrate this attitude:

> In the recent past young learned men want to swindle the parents out of their educated daughters. They try to use Western ideas of marriage. The parents who have struggled to educate their daughters find they disappear without anything – hence parents have come up with demanding compensation for educating and raising their daughters. Young people are very cunning and slanderous. Parents are not selling their daughters; they only want something as compensation to be used for land purchase or education of younger children. In Africa, parents educate daughters order to expect something from them when they get a job – you educate so you will benefit. They got every reason to ask for payment, a son obviously helps his parents but a daughter will not be expected to help her parents when married. Hence you have the right to expect 20,000 shillings as bridewealth.

Parents instil a sense of obligation in their daughters in order to ensure that they do not leave the parents without bridewealth. An attitude survey among 43 employed women revealed a desire to please parents as one of the main reasons for not eloping. Elopement leads to an estrangement from parents, who will not visit, nor welcome daughters when they come to their natal home.

Parents' main control is, however, channelled at another level, and in somewhat surprising circumstances. Through the church, its organization and ideology, parents attempt to control the marriages of the younger generation. The churches do not wed young couples without their parents' consent, which is not forthcoming without bridewealth. In the words of one SDA pastor: "If the church preaches against bridewealth, members will be strongly against the church because it is against tradition. Priests will be seen as people advocating free things". A pastor in the Lutheran church expressed similar views: "No pastor dare marry a couple without the parents' consent although we are worried that young people leave the church because of high bridewealth that must be paid".

Most pastors and church elders themselves have daughters for whom they want to receive substantial bridewealth and since the churches depend on local contributions, they have to conform to the wishes of the older generation. Wealthy members of the congregation are often lay-persons within the church organization and have daughters who are employed. They have direct involvement in the church policies regarding marriage.

By virtue of their salaries, employed women are sought after as spouses. A suitor therefore runs the risk of losing her to another man who offers to pay

her bridewealth. In the words of one young employed man: "Bridewealth is a way of tying one to another; without it somebody else might marry her". Employed women are less likely to agree to a long deferment of the payment. They will put pressure on the husband to pay and mediate money to their natal homes.

The differences in evaluations of women between the employed men and the peasants further illustrates the economic component of bridewealth transactions among the employed:

> If you marry a girl with money salary you can use her money to pay bridewealth. You count how much a working woman can contribute to you before settling the bridewealth.
> I dictate how much money I want from her. After all I paid for her therefore I can take all she earns.
> Bridewealth is important because it serves as compensation for the outgoing lady. The... man who marries her will always be benefitting either from the woman's money or work.

The reasons for the quick transfer and the high value of bridewealth are connected with control over the wife's earning capacity. The economic aspect of payment with respect to employed women is far more distinct than with non-employed. When bridewealth is paid men are able to exercise control over their wives' incomes for such uses as investment in land or businesses, paying school fees or consumption. While some men attempt to discuss the disposal of a wife's income with her this is no customary practice which necessitates that husbands do so.

Like their farming sisters, employed women are legal minors without formal control over themselves. Bridewealth transfers the rights to use the fruits of a woman's labor from her parents to her husband. Employed women, however, are able to exert greater control than non-employed over the allocation of their income.

2. Strategies of employed women.

Women who pursue a secondary education and professional training as nurses, teachers, secretaries, etc., seldom elope during their studies. The reason is that when their parents pay for their training they feel wanted by the parents and brothers who pay their fees. Their relation to the natal home is entirely different from that of those who have been forced to leave school. Being supported and encouraged to pursue their studies, these girls and young women have an accepted position as single women. As long as they are training they are very determined to delay marriage or elopement until they are finished and employed. Employed women feel that they owe it to their parents to see to it bridewealth is paid. Payment is seen as a "thanksgiving to the parents" and creates a good relationship with a woman's natal home. This is one reason for their unwillingness to elope. Although employed women could afford to stay single, few ever contemplate it. On the contrary, they

strongly desire marriage (Håkansson 1985). A number even use their own incomes to contribute large parts of their own bridewealths.

Another reason employed women seldom elope is that they are in great demand and do not have to wait a long time for a man to come and offer to pay bridewealth. By withholding her income from her partner's use, an employed woman can induce him to pay bridewealth. As long as her partner has not paid, an employed woman who has eloped usually continues to send her income to her parents rather than surrender its control to her partner. Elizabeth, who works as a nurse's aide says: "Since I am eloping I will continue to give money to my family". In a small survey of employed women, which I conducted, most of those who had eloped continued to send over 500 shs per year to parents, and support at least one sibling with school fees.

Married, employed women's financial help to parents declines, but they continue to support siblings with school fees, often in collaboration with their husbands. When the husband has paid bridewealth he gains extensive control over his wife's salary and may use it for investment in business and land. Although he is using his wife's money, all property is usually registered in his name, and if there is a divorce she will, according to customary law, lose everything for which she has paid. The man has much incentive to pay the bridewealth in order to control his wife's income. Again, I shall let some employed women comment on this: "Male chauvinism still prevails – they want to dominate in the name of bridewealth payment. Because men claim to have bought and as a commodity they should have no say". Another woman commenting on her husband's control over her account:

"Even the money I earn I can't control. It is in my account but when I want to take any out I must ask him and then report that I spent 500 shillings for the clothes for the children, and this much is remaining. If he wants to buy land with my money he tells me, but I can't refuse".

The customary marriage gives the husband control and ownership of everything the wife buys with her income. This includes land if, as usually happens, it is registered in his name. Many employed women perceive this danger, and partly for this reason, wish to marry both according to the national law and by bridewealth payment. As one female teacher expressed it when married in church, at the District Commissioner's office or at the Attorney General's office: "...[Y]ou have a document to produce in case anything happens. If you have that it is not easy for him to divorce you".

Under the National Marriage Act, the woman is entitled to a share in the family estate, even if property is registered in the husband's name. Hence national law gives women a certain protection which customary law lacks since it does not recognize women as property owners in their own right. Child custody is also easier for a woman to obtain in case of divorce because national law takes into account other factors than custom when deciding where a child should live. National law considers the welfare of the children rather than the father's automatic right.

Another precaution which employed women also take is to convince the husband to let them register some of the purchased land in their own names.

By virtue of their earned income, and by threatening to withdraw their income from the husband's control, employed women are able to exert more influence in their marriage than non-employed women. First, an employed woman does not cede control of her income to the husband as long as he has not paid bridewealth. Second, within marriage she is able to hinder the husband from taking a second wife. I have not seen a single case of a married, professional woman whose husband has a second wife or is openly cohabiting with another woman while still living with his first wife. This may partly be explained by the fact that the husbands of women in qualified employment are themselves secondary school educated and have qualified occupations. They therefore often have a Western outlook and are not interested in taking second wives for prestige or for economic reasons.

In the few cases that I recorded where the husband eloped, quarrels erupted and the wife used her income as a means of coercing her husband into leaving the second woman. One wife whose husband eloped with another woman explained that: "Now since he had brought another woman I could as well eat out of his pocket also, and I stopped buying food for my money and asked him for it instead". Her husband ended his relationship with his lover.

Finally, employed women also maintain strong ties and relations with their natal families. Employed women contribute substantial amounts of money to their siblings' school fees and to their parents' support, if the latter are poor (cf. Whyte 1979/80). S. LeVine's study of Gusii women also shows their desire to retain links to their original families. However, due to the restrictions imposed on their movements by their in-laws, and a heavy workload, the farming women face several obstacles in sustaining such relationships (S. LeVine 1979:19).

By virtue of their income, which gives them the means of supporting their parents and siblings as well as more independence from their husbands, employed women are in a position to realize closer ties with their natal families. One employed, unmarried woman, who used a large part of her income to assist her parents, said, "I want to stay alone so that I can help my parents and pay my brothers' and sisters' school fees. I want my family's home to look like a home where people stay. I want to build a house for them and buy utensils".

After marriage, employed women put pressure on their husbands to allow them to give money to their natal families. A husband who refuses to countenance the support of his wife's natal family may face quarrels and difficulties. A young male school teacher explained: "If you don't allow her to send money to her relatives she will be obstinate when you want to take money to your siblings". Hence, in everyday husband-wife relationships rights and obligations between spouses are slowly being redefined.

The social consequences of this recent trend are unclear and difficult to predict. It is obvious, however, that employed women are building up stron-

ger ties with their natal kin than was previously possible. The result may be that brothers and sisters who have received school fees from a sister in turn reciprocate by paying the school fees of their sister's children. In this way the importance of matrilateral kin ties will continue to increase.

3. The relationship between a husband and his in-laws

As has been shown, payments of bridewealth for employed women, contain a large element of compensation for their cash earning power. There is, however, a trend to transform the payment of bridewealth from a single transfer to a payment in installments over a longer time period, creating a relationship of debt and reciprocity between in-laws. While marriage between peasants implies avoidance and no, or very little, interaction between a son-in-law and his wife's parents, marriage between employed men and women ties the son-in-law to his parents-in-law in continuous social and economic interaction. This is an entirely new development, which contradicts the traditional norms for minimal contact between a man and his affines.

Many fathers-in-law have a conscious strategy of binding sons-in-law to them in a debt relationship. As one father put it:

> If you ask too high a brideprice it tends to kill the relationship, it does not become mutual. Asking a fair brideprice draws a fair relationship and results in more helping in the future. You obtain good will from sons-in-law, they would like to help because of the father-in-law's fairness.

In his own case, his daughter and her husband, who are both employed, gave him money to buy a van. One son-in-law gave him money to finance his son's studies in the United States.

Another informant, who is a civil servant and has several daughters, formulated the same theme succinctly: "Through only paying a part they will keep coming. By not paying all you create a relationship. When you promise to pay that creates relationship". By accepting a comparatively low bridewealth, around 6,000-8,000 shillings to be paid immediately, the son-in-law remains indebted and has to continue to repay the father-in-law. By leaving a debt in money, rather than in cows, repayment becomes an ambiguous affair which is difficult to distinguish from such general assistance as "helping" with a wife's sibling's school fees. Since a husband controls both his and his wife's income and manages them as a joint fund, such remittances may be construed by her parents as their daughter's salary paying school fees for her siblings. According to custom she cannot pay her own bridewealth, and hence, unless the husband consciously saves a lump sum from part of her salary and delivers it as a final payment, such "help" with wives' siblings' school fees are very difficult to offer as partial bridewealth payments.

By marrying an employed woman a man enters into a debt relationship with his wife's parents, which is entirely different from peasant marriages, where the relationship is one of avoidance and very little reciprocity. Young men explained to me that they felt indebted to their fathers-in-law, and

therefore it was a duty to assist the wife's parents. These men meant that their parents-in-law are like their own parents. Employed men often emphasize the embarrassment and shame that they feel vis-á-vis their partners' parents before paying bridewealth. One young man, a lawyer, told me that his wife's sister had eloped with an employed man who, despite earning a steady income, did not pay before cohabitation. "It looked like they avoided paying anything. I am more respected than him when I go to visit my mother-in-law; I am recognized as part and parcel of that home. The other one was embarrassed, so he paid later". Employed women continue to send money for siblings' school fees and insist on doing so. Thus, despite paying high bridewealth in order to control their wives' income, husbands seldom benefit from their wives' full salaries. This is in contradiction to the view held by many fathers that they lose a daughter's earnings, and therefore the husband must pay a high bridewealth in order to compensate for the outlay on her training.

Since this kind of relationship is relatively new, it is not yet possible to see the effect of a transformed bridewealth system on the content of kinship relations. A man who contributes to his wife's siblings' school fees makes them beholden to him so that they may assist him or his children in the future. Through regular assistance with money and gifts, the husband and wife maintain ties with her family as well as with his. One of my informants, a ca. 40-year-old veterinary officer explained:

> If the wife is working they [husband and wife] feel they should help her sisters and brothers which also maintains the relationship. It is easy to control someone you have educated. But you don't see help as a refund. Only those persons who have jobs find that they can help voluntarily. If they ignore it, a good relationship is not cultivated but enmity is created.

A system of affinal alliances may develop together with a strengthening of matrilateral ties for reciprocal assistance. An employed woman who has assisted her siblings with school fees may in the future look forward to reciprocal assistance between her siblings and her own children. As a result of socio-economic stratification, such a development may be accompanied by a decline in the importance of agnatic relations, since agnatic relations may be poor and uneducated. According to the veterinary officer quoted above: "Generally when someone from a big-man family marries into a poor family it means that rich person's family is becomes financially tied up". But, through selective marriages between employed men and women, kinship ties are formed between members of employed persons' own social stratum.

Cattle, cash and bridewealth

For the Gusii the involvement of cash in bridewealth for employed women creates a number of conceptual conflicts and contradictions, which become apparent during negotiations where the participants try to handle both the economic aspect of bridewealth, i.e., the compensation for the woman's

earnings that are now lost to the wife-givers, and the symbolic aspect of the transfer as establishing a new set of social statuses. To illustrate these conceptual difficulties, I describe here a bridewealth negotiation involving two young employed Gusii which I observed. The wife is a registered nurse and the husband a secondary school teacher. The wife's father is a farmer of average wealth with mud-walled thatched houses. He and his wife are active Roman Catholics and teetotallers. He has only one wife and the daughter is his oldest child.

The husband's father is of similar economic status but he has two wives and is a church going member of the Pentecostal faith. Although he drinks beer, he is moderate in his consumption. Both families are what the Gusii would call "well organized" in that the parents do not drink much alcohol, they save money, and send all their children to school with aspirations to send them all through secondary school.

After three years of friendship, the couple decided to marry. Although they had known each other for a long time, they had been living separately, since their respective jobs are situated far apart. Josephine comes from Kitutu West location and John from Basse location, about 25 kilometers distant. The negotiations had been preceded by two meetings between relatives of the couple. First, an *ekeerano* had taken place at the wife's home. John had arrived with myself and three young male friends from his clan. During the afternoon, we met with Josephine and her sisters and classificatory sisters who served us tea and bread. Around 4 P.M. two young men from the bride's clan arrived, and we were served a large meal consisting of goat meat, millet porridge and maize porridge. The young women served the men but retired to eat separately.

Around 5 P.M. six old men and seven old women came into the small room, which was soon crowded. After formal introductions, the bride's father started to question the bridegroom, in particular about his religious affiliation and seriousness. Answers were provided by the groom's age- mates, while he himself was quiet out of respect for his father-in-law. Josephine's father then dwelt for some time on his daughter's educational achievements, her professional employment as a hospital nurse and on the fact that: "I never wanted Josephine to marry as soon as this. I wished that Josephine could have stayed at home a little bit longer in order to help the younger children in the home in getting them into schools of higher learning such as secondary schools and colleges". This meeting ended at about 6.30 P.M.

Josephine, who is an extrovert, was adamant about the necessity for her husband to pay bridewealth before they had children together and before they moved in together. She claimed that it was also her parents due as a sign of respect and gratitude. Furthermore, since her husband would benefit from her income, he should pay a substantial bridewealth as a compensation to them and in order to establish her as a proper wife.

1. Bridewealth negotiations

In August 1983 (two months after the *ekeerano*) negotiations took place at the bridegroom's homestead as follows: Around 6 P.M., the bride's father arrives with three age mates from his clan and a younger man, a teacher. They are received by the groom's father, two age-mates from his clan, the groom's mother's brother, and a classificatory son. The latter was also a teacher, brought along to match the educated representative of the bride's party. The bridegroom is not allowed to enter the negotiation room, and the bride and her mother are not present since women are not supposed to join bridewealth negotiations. Although no women are present at this negotiation, nowadays, they are sometimes allowed to attend as silent observers.

The negotiators introduce each other formally before sitting down at the table. They describe where they live and what their occupations are. An elder from the wife-taking party expresses the hope that the negotiations will be successfully concluded and that every elder will cooperate to this end. He goes on to say that the young couple have done their part by showing respect through their decision to follow the traditional procedure of marriage. The same elder then presents the wife-takers' offer: "Without wasting time we will offer you 4,000 shillings cash right now".

The wife-givers want the statement of 4,000 shillings to be clarified: "Are the 4,000 the total amount to be paid or is it only a small part leaving a debt outstanding"

The wife-takers answer: There is no additional sum remaining as debt; it is the total sum being offered.

Referring to Gusii customary procedure of bridewealth payment, one elder from the wife-givers' party reminds the audience that without cattle there can be no marriage and no marriage negotiations could succeed. He therefore asks the wife-takers whether the 4,000 cash could be equivalent to one grade cow or perhaps three native cows.

He suggests that: Talking about cattle could be relevant to our customs and then we convert them into cash after arriving at some agreement since this is the way it is done in modern Kisii negotiations. I therefore seek clarification from the bridegroom's camp.

Another elder from the wife-givers' group adds: It is needless to raise the question concerning cattle for bridewealth payment as there are no fields to graze cattle. I therefore advise everyone in the room to forget about cattle and concentrate on money.

Again the wife-givers state: Very well then if it is in terms of money then you give us 45,000 shillings cash. In the olden days we could have asked 10-15 cows and 15 cows is roughly equivalent to 45,000. 4,000 shillings is therefore meaningless in today's situation.

Wife-takers: Marriage differs greatly these days. Some may agree to only two cows and others on seven cows. So here we are talking about native cows.

Wife-givers: We have not come to trade, bride-wealth has been there and we are here because of Kisii customs. You should not therefore see us as selling our daughter, but we would like to see our relationship strengthened. Grade cows have taken the place of native cows. So when I am talking about cows I mean grade cows because native cows are disappearing.

Wife-takers: Let us confine ourselves to money and not cows. There is already a bridge, and our mission here today should not be seen in terms of destruction but to make the bridge stronger.

Wife-givers: It is good that you have told us that price and I think it is correct to call bridewealth a price because haggling is involved. So in order to shorten the discussion, give us 50,000 cash because 4,000 is far from our imaginations.

Wife-takers: Originally you said 45,000 and right now you mentioned 50,000. Are you increasing the price? Or is it supposed to go down? What do you mean? Explain.

Wife-takers: The first speaker referred to cattle and the second speaker to money. We have already told you all that we can offer you. We should bear in mind the financial status of this family, and as everybody is aware he has also got children in school, which means that there is not anything [*sic*] much left in his pockets.

Wife-givers: We are not debating on the wealth of the homes; we all come from villages which do not have much in terms of wealth. Concerning education I must stress that all families have a major task to perform in paying school fees.

Wife-takers: I find it practically impossible to raise any sum near the figure of 50,000. John and Josephine have gone a bit too deep with their love affair. Our task is therefore to help them to succeed and not to frustrate their efforts.

Wife-givers (the elder quotes a Gusii proverb): He who is after a woman to marry should accept defeat. So if you people were really prepared you could have saved much. We have not come here to destroy as you have said, but to build up the relationship. It is rather you elders from Nyacheki who are bent on destruction because you are mentioning too low a price.

Wife-givers: Nobody's ideas and suggestions are final. There should be room for questioning, so when we question your 4,000 as bridewealth it is not to be seen as destruction. Moreover, our daughter should not be compared to a cow being sold to people for economic use either for slaughter or milk production. She will form a good bridge between us which will be used as a means of communication for years to come until the end of the world. We will be known as relatives through her.

Wife-takers: My wish is to build a good understanding between *chikorera* and in-laws. Also, bridewealth payment is not the end of helping. We will always be helping each other. It is hard to get cows to pay with and now my question is this: Do you want the 45,000 in installments or cash money? ... It is not a cow to haggle on and we will always be helping one another.

Wife-takers: We have discussed enough and obviously people do what they are able to. Unless you accept what we have it is therefore impossible to come to a compromise.

Wife-givers: Well, we of course mentioned 50,000 and we expected you to mention your price also which is too little, moreover you have decided to stick to that sum without increasing it at all. It is the Nyacheki elders who do not want to co-operate in these negotiations.

Wife-givers: In the olden days bridewealth negotiations could first start with the bride's father being given part of the cattle herd. To refuse it meant more cattle should be added to the herd offered. Now we have refused your herd of cattle in terms of money, so you are expected to add, as our people did in olden times.

Wife-takers: The 6,000 shillings cash money will be used as the bridge between us. Maybe you would like other money later, and there is also the wedding arrangement to be done. All these will be solved as days go by.

Wife-givers: We have not come to destroy but to strengthen the relationship which has been started by our children. You have only added once to your original offer which is very improper. We would like you to be serious so that we can proceed and gradually conclude these negotiations. Whereas we ask the final money for the bridewealth payment, you are on the other hand, only discussing money that you should pay in cash, not the final sum including the cattle.

After a lengthy and loud discussion about how much of the bridewealth should be paid in cash immediately, and whether the wife-takers also want to pay in installments, an elder from the bride's group states: Our actual final sum is 40,000". A sum which

causes laughter and commotion because the gap between wife-takers and wife-givers still remaines wide. After further discussion within the respective groups about how to conduct the negotiations, one elder suggests that the fathers of the bride and groom conduct the discussion person to person, rather than as is customary, letting their mates do most of the direct negotiation. This is dismissed as highly irregular and soon the issue of bridewealth is again addressed by an elder from the bride's family:

Wife-givers: Some of us are not exactly aware of how much is supposed to be agreed upon. They are not adherents of Kisii traditions and therefore not capable of agreement.

Wife-givers: We are now getting tired of these discussions, our desire is to see that our daughter stays here in peace. We have appealed to you to be flexible, but we have failed, wherefore we have finally decided to shift the discussion and settle it. Enough is enough, and now I suggest 35,000 shillings.

This sum cause laughter and pronounced coughing sounds from the wife-takers. The bride's father is annoyed that a member of his team has lowered the offer and walks out of the room. He comes back and is rebuked by several other elders from both his own and the wife-takers' side for leaving the room and for being stubborn. An elder from Nyacheki blames the bride's father for being too rigid in his attitude and demands, cautioning him that unless he becomes more flexible he will be the loser. His daughter and son-in-law will feel very bad towards him and hatred will begin to grow.

The wife-takers raise their bid to 8,000 shillings and two cows, saying that if the wife-givers do not accept, they will quit the negotiations. The bride's father is still intransigent and says that all he is interested in is a wedding, and that he does not care about how much he is given.

An elder from the wife-givers' side asks: Are the 8,000 and two cows in cash money or is a debt included so that they will take half the money and the two cows, now and receive the rest later. Is there also a bull to accompany the two cows because cows will not be taken alone? Tradition does not permit that. Furthermore are you also going to pay goats and give a *sufuria* and blankets.

The wife-takers try to refute the claim for a bull and the wife-givers again ask whether or not a bull, is included. The wife-takers give in and add a bull to the bridewealth offer. The bride's father again enters the discussion and says that he will never accept 8,000 shillings, two cows, and a bull. "That is a useless sum" he says and reiterates that he has offered his daughter free of charge. Other elders intervene and, obviously irritated by his attitude, ask him to clarify his statement. He replies that he has been fooled. The other elders from his group have, however, accepted the offer from the wife-takers and for the bride's father to continue to oppose their views would be considered very offensive.

The total bridewealth finally agreed upon was 4,000 shillings in cash and cattle representing one bull and two mixed breed cows valued at 6,000 shillings, and 5,000 shillings in money, as a debt to be paid in the future. Later, however, John, the bridegroom, maintained that the debt will never be paid.

Finally a church wedding was planned, but as of June, 1985, it had not yet been performed.

A number of themes stand out in this negotiation. First is the problem of relating money to bridewealth, which is supposed to be paid in cattle. Second is the implication of a commercial transaction inherent in the use of money, and in the knowledge that the daughter's income is an important part of the considerations of both parties. Third is the constant references to Gusii traditions, which are reinforced and followed in a bridewealth negotiation.

Although the woman's father was explicit about the loss of her income at the *ekeerano*, there was no talk of compensation during the negotiations. Indeed, it is stated that they are not selling their daughter, that the bridewealth is to build a bridge between *ekorera*, and that it is a matter of traditions. The traditional character of the bridewealth payment is emphasized in contrast to modern and foreign, i.e., European, forms of marriage without bridewealth. The same theme is also evident in a quotation from another bridewealth negotiation involving employed persons. "As I told you, let's go back to Kisii customs, and we move from the whites". Gusii custom is followed throughout the negotiation and through the payment of cattle as bridewealth. In order to adhere to traditions, Gusii have to solve the problem created through monetary payments. This is difficult, and the negotiators constantly confuse whether the stated offers are in terms of money or cattle, whether the cows are "alive", i.e., real, or not.

The use of money as a metaphor for cattle is stretched to the point of calling the bank account "the cow shed", as in this part of the negotiation: "The old man also said they the money are not here, but you said that they are in the cow shed. You will wait, and they will be sent [from the bank]".

2. Church marriage

Most marriages between employed women and men are confirmed by a wedding, either a civil ceremony at the District Commissioner's office or a church service. Such weddings are almost always accompanied by large scale festivities involving friends and relatives. A church marriage consists of the ceremony in the church and a number of festivities beforehand.

A Seventh Day Adventist wedding is conducted in the following manner: Before initiating a marriage both parties must write to the church elders at the bride's parish and apply for permission to wed. The church elders then contact the bride and her parents, and if they confirm that the young woman is willing to enter a marriage with the man, an *ekeerano* will follow, where the bridegroom and three or four male-age mates from his clan visit the bride-to-be and her family. After this visit, the procedures for bridewealth negotiation take place.

Once bridewealth has been paid, the church elders on the woman's side will permit the wedding to take place after three Saturdays (in SDA church, and Sundays in other churches) when the banns are read. After approximately three weeks the wedding takes place. Before the wedding, however, there are a number of festivities at the bride's and bridegroom's homes.

For the wedding the groom, his best man, the bride, and her bridesmaids have to be dressed in wedding suits and gowns. These are borrowed, bought, or rented. Afterwards a big reception is held in the afternoon in some building large enough to contain the 100 or so guests, who are fed. Such receptions are also occasions for display. Cars drive up to the building and are parked outside, and the number of invited guests increases with the wealth and prestige of the families involved in the wedding. At one wedding I

visited, the bride was the daughter of a very wealthy and prominent politician. There were around 500 people being fed in a large dining hall at a school in Kisii Town.

Weddings comprise a number of parties and feasts and are very expensive. Pre- wedding parties are held at the respective families' homes, for which each family pays. The feast before the wedding day is paid for by the bride's family,the reception, which includes the rental of the hall and the food for the feast in the evening, which is paid by the groom. In addition, costs for transport and wedding suits have to be defrayed by the groom's family. The bride's parents pay for her wedding gown and the clothes for the bridesmaids. One man estimated the cost of his wedding as 10,000 shs paid by him and an additional 1,500 shs contributed by his wife.

Both church weddings and civil marriages are valid according to the Kenya Marriage Act and, therefore, are under national law in case of matrimonial dissolution. In addition, to obtain a marriage certificate through the church or the DC's office does not cost much and is possible for all. Nevertheless, for the Gusii, performance of such a ceremony is intrinsically linked to large scale festivities. Hence, when I asked informants why many Gusii do not marry in church or at the DC's office, I always received the answer that such weddings are very expensive because of all the costs involved with the feasts and dresses and transport. Thus, by connecting such weddings with costly feasting people do not avail themselves of the possibility of establishing marriage according to national law.

Conclusion

The changing values and institutional form of bridewealth emerging among the employed is congruent with their formation as a socio-economic group. They have different assets, constraints and interests from the peasants.

Bridewealth as an economic compensation and as a means for establishing affinal links, is stressed. The demand for employed wives gives these women and their parents a strong position vis-á-vis the wife-takers. Employed women can wait for suitable men who can and will pay bridewealth. Furthermore, in this advantageous position, they can achieve other goals through marriage as well. Employed women strongly desire a church or civil marriage, which give prestige and some legal protection, since national law recognizes women's property rights.

Therefore, it is difficult for men to escape payment. In addition, men also pay bridewealth early in order to gain control over the woman's earnings. Together with this development, there is a marked tendency towards transforming bridewealth into a debt relationship, in which the son-in-law continues to support his wife's siblings and parents with money, as well as socializing and interacting with brothers-in-law. At the same time, employed women continue to support their siblings with school fees, building a stronger relation with their natal home. This is a shift in the meaning of bridewealth, from

a single transfer aimed at keeping a distance between affines, to a more intimate economic and social alliance. Affinal relationships are reconstructed as alliances mediated by bridewealth.

This transformation in turn depends on the possibility that marriage presents for choosing new social relationships and kinship links. Descent principles link families of different socio-economic strata, and since such linkages are of little use to the employed, poor patrilineal relatives are often seen as a burden. Marriage, on the other hand, allows the employed to opt for relationships within their own socio-economic group. Two processes are operating, which may reconstruct the social universe from one based on strict unilineal descent and a segmentary lineage structure to one founded on cognatic ties. First, employed women are able to realize a wish for closer connection with their natal families. Second, men and women's parents are also establishing alliances and kin ties outside the patrilineal descent group.

Such a development, however, does not necessarily lead to a shift from an emphasis on patrilineal descent to a completely cognatic structure. Instead, the dissolution of the segmentary model of society will allow individuals to utilize matrilateral, uxorial, and affinal connections (Håkansson 1987). The transformation of corporate descent groups based on unilineal kinship into nuclear families with bilateral descent has been observed elsewhere in Africa, in relation to urbanization. In the cities productive capital is no longer vested in corporate descent groups. Occupational and social differentiation cut across unilineal groupings, leading to stress upon of bilateral kinship networks all over the city (Mitchell 1961:324f; Cohen 1969:209). Socio-economic differentiation in Gusii Land is only partially urban based, but its effects are similar to those suggested as occuring in urban enviroments.

The change in the meaning of bridewealth may be understood from the point of view of theories of gift exchange (Mauss 1970; Sahlins 1972; Parkin 1976). Sahlins (1972:222f) suggests that bridewealth transactions are to be characterised as unbalanced reciprocity in which unlike things are exchanged, e.g., women for cattle. The imbalance of the exchange constitutes the basis for an alliance. The indebtedness between the parties creates reasons for further interactions and payments. Symmetrical exchange, on the other hand, tends to cancel the debt and the basis for interaction.

The Gusii, however, conceive of bridewealth transactions as a balanced exchange of cattle for a woman's reproductive and productive capacities. The husband and his family on the one hand, and the wife's natal family on the other, should maintain the balance and avoid interaction. Since traditional bridewealth contracts cancel social and economic interaction they must be changed if an alliance is to be affected. This is done through the indebtedness of the son-in-law and the close ties maintained by employed women with their natal families. The bridewealth agreement is left open-ended without specification of how the debt should be settled.

It is possible that the use of money, instead of cattle, facilitates this construction of alliances because cattle are conceived of as in some way equivalents of rights in children. Traditional bridewealth established a legal

marriage and made a woman a member of her husband's lineage. It was an either or situation in which no ambiguities could be constructed or tolerated, since that would have destroyed the segmentary model of social classification. Either a woman was a wife or she was not, and a man had legal children or he had not.

Money is decidedly not equivalent to rights in children or symbols of conjugal status changes. Hence, it lends itself to the expression of new relationships. The idea of economic compensation can be brought into the bridewealth contract, as well as the relation of indebtedness.

Since the basis of the bridewealth exchange lies in its meaning in relation to the folk model of society which the Gusii have, the change in its use has to be couched in terms of tradition. Thus, at negotiations, the elders constantly stress tradition and the aspects that they believe are relevant to the new form of bridewealth. The changing use of bridewealth is masked by the use of language, metaphors and rules which refer to tradition rather than change. The introduction of money as a medium for bridewealth payment has made its transfer more flexible, as well as providing direct compensation for a woman's labor capacity. But the social aspect of the bridewealth exchange has not disappeared as a result. Indeed, its monetization has allowed the creation of new content in social relationships.

Notes

[1] However, if the incidence of elopement versus marriage by employed women is compared to that of non-employed women in Suneka only, the difference is statistically significant at $p < 0.05$. The women in the Suneka sample included both wives from clans other than the one dominant in the area and daughters of the men in the local patrilineal segment. The daughters were, in almost all cases, married to men from clans living near Suneka, and the wives likewise came from other clans in Wanjare. The daughters from the local clan segment in Sengera married men from neighboring clans in southern Majoge and Bassi clan clusters. The men in Sengera likewise married or eloped with women from these regions. The area from Suneka to Kisii Town is very densely populated and the population is, to a high degree, involved in off-farm income earning activities. Both southern Bassi and Majoge are less densely populated and the population is more dependent on farming income than in the Wanjare region, to which my data pertain. These facts support my hypothesis that increasing land scarcity and dependence on off-farm income contribute to increased elopement among peasant women.

Chapter 12

Conclusion

This study examines the changing role of bridewealth in structuring male-female relationships, with a focus on resource allocation and family affairs. Through the use of a diachronic perspective I have attempted to add historical depth to theoretical approaches to bridewealth which usually employ static analyses. The formal, culture specific properties of Gusii bridewealth are analyzed in relation to actors' use of the institution as an object of manipulation for the achievement of goals.

Throughout this book the competitive nature of Gusii culture has been visible, especially with respect to marriage. This ethos can be said to provide the background, or the given, in my analysis. I do recognize, as Parkin (1976) has pointed out, that ideologies of negotiation and altruism may coexist in the same society and to different degrees between societies. The Gusii have an ideology of competition, or, in Parkin's words, an ideology of negotiation, which is related to their segmentary model for social interaction. The segmentary model provides a rationale for cooperation and competition which is relative, and which defines most other persons, at least in the same generation, as potential competitors.

It has therefore been fruitful to focus on how people manipulate bridewealth in order to achieve particular ends, and in doing so affect alterations in overall patterns of social interactions. This use of bridewealth in the competition for wealth is documented here from as early as as the inception of the colonial administration. Grounded in social structural features of their society, the notion of competition and manipulation of human and other resources is also strongly emphasized in their cultural ideals of how human interaction is conducted. Thus, on a general level this characteristic also emerges as a force in Gusii social affairs.

Bridewealth continues to be central to Gusii social organization because it is connected with specific norms and values which provide continuity. The basic norms and values concerning the husband and wife relationship have hitherto remained largely intact because it has been able to adapt them to changing conditions.

Social change, bridewealth and resources

At present a transformation of bridewealth is in progress with respect to norms, values, and institutional form. These processes can most clearly be

seen in relation to the emerging socio-economic stratification and cultural differentiation. However, in contrast to the wealthy peasants and employed Gusii, among the poor peasants, bridewealth has gradually changed in form, but has largely retained a set of legal and socially sanctioned norms.

The social consequence of greatest importance for the poor farmers is the decline in women's control and access to resources. Within marriage, the income produced by the labor of wives is appropriated by the husbands. Furthermore, women's rights to land through marriage became circumscribed, because the male control of resources was strengthened when land became incorporated as family property. As a result of this legal event, women's security of tenure diminished through men's ability to sell land. While these developments have been observed in other societies and commented upon by other researchers working in eastern Africa (Pala 1980; Jones 1981: 223; Oboler 1985:316), these authors have regarded the engagement of couples in marriage as unproblematical. The Gusii case shows that the decline in the frequence of marriage among young people is eroding women's economic and social position because women still receive social and economic security through marriage. Thus, bridewealth transactions have today come to concern rights in land and property as well as rights in people.

The major reason for the increase in elopement is land scarcity which has caused a decline in the demand for wives and a desire by brothers and fathers to expel sisters/daughters from their natal home. Elopement and informal unions are the common way for young men and women to establish households. Meanwhile, jural norms connected with women's access to resources and the definition of their social status have remained largely intact since the colonial period, when elopement unions were uncommon. The prevalence of elopement and consequent estrangement is placing more and more Gusii women outside the framework of resource distribution and accepted social statuses, making them socially and economically marginalized as spinsters.

Thus the Gusii case depicts a situation which may also develop among other east African patrilineal societies, when land resources become scarce when the significance of family based production decreases. Through land scarcity, an ever decreasing number of men are involved in agriculture, and those with land are not marrying polygynously. Hence, the number of single mothers with small marriage prospects is likely to continue to rise.

Marriage relationship

The values that men and women strive to attain within marriage affect the way they behave in relation to bridewealth. During the pre-colonial period the goals of men's marital strategies were to have many wives and many sons, which in turn gave them prestige, power, and an opportunity to become remembered in the lineage genealogy. The only status open for women was to become wives, whose influence in the family, and whose position as foundresses of lineages, depended on having many married sons. Therefore mothers tried to secure as much wealth as possible for their sons in order for

them to be able to marry many wives to produce a new generation of descendants.

The legal rules and social norms that regulated family relationships guaranteed each house rights to cattle and control over agricultural production. Men were expected to assist in a number of agricultural tasks on the household plots, and could not utilize their wives' labor for their own purposes.

The establishment of colonial adminstration brought new resources and changed political conditions. It became possible for men to attain wealth through the marketing of crops, wage labor, and business. Pursuing traditional goals of family expansion and polygyny, men began to utilize their wives' labor for the production of crops for sale, and then took the income. At the same time, many of the men's business activities and wage labor demanded that they stay away from the farm, and the burden of agricultural tasks fell on the women. The possibility of expansion through market production encouraged men to encroach on women's rights and to avoid their own obligations. Simultaneously, the increased wealth was invested in marriages, leading to increasing brideprices, which in turn encouraged parents and brothers to force daughters and sisters to marry wealthy old men who could pay high bridewealth.

The women, on the other hand, rebelled against this exploitation and left husbands and parents to go and live with other men who had not paid bridewealth for them. Since the old and wealthy men controlled the court system, they introduced a number of new "customary laws" in order to control women, whose labor power had become essential to the achievement of men's goals.

Husbands' rights in wives have been strenghtened since pre-colonial times. This reinforcement took place during the colonial period when men started to appropriate the fruits of their wives' labor for their own purposes. Thus, today a husband can control the monetary income derived from his wife's production. Although a wife's right to control the production of her own house has disappeared, the principle grants her access to house property, and that which, through her legitimate sons, grants her security in old age, has remained. The strengthening of men's power through the court system and through the profitability of market exchange effected a shift in the rights and obligations pertaining to the statuses of husband and wife. This change in legal norms was based upon the husband's status as head of the homestead. Legal changes resulted in an increase in his resources, although he continued to pursue the same values as before the onset of colonial administration. The women lost rights and autonomy because they did not have access to external wealth; they had an inferior position in the homestead and, unlike their husbands, they were not supported by the colonial administration.

Although women were inferior to men in the pre-colonial period, political and economic conditions made it possible for them to retain and defend rights in their own labor. If she felt mistreated, a wife could leave a husband, and possibly escape to another clan. The colonial administration provided a governmental apparatus through which men could control women, removing

a major avenue available for them to act against their husbands' wishes.

The husbands' increased exploitation of their wives caused conflicts in the homesteads, but the gain to husbands compensated for the costs and problems associated with family quarrels and runaway wives. Furthermore, due to the increasing bridewealth men had to extract more labor from their wives in order to afford more wives and cattle, and, later, business investments and education for their sons. The administrative system and the market economy thus tipped the balance of power between husbands and wives in favor of the former.

The competition for wives caused bridewealth to increase and women to be exploited within marriage. But it also assured women of the rapid attainment of the status of wife, the only status open to females. Within that position wives also tried to obtain influence and wealth through the house property system, and in so doing came partly to pursue the same strategy as men, namely a desire to obtain as much bridewealth as possible for their daughters and to control their daughters-in-law. Mothers and their sons competed with other houses in the family for access to resources such as land, parts of the husband's unallocated wealth, etc.

Another significant change in jural rules was the inclusion of land into the family property, which made it an inheritable asset controlled by males and therefore an element in family status relationships. Before the 1940s both men and women had usufructury rights to land depending on their social statuses as clan members. Wives controlled both the plots of land that they cultivated and their produce. The enclosure of land, making it into family property and *etugo*, inheritable property, placed land directly under the control of the individual male household head.

During the 1950s and 1960s land became scarce, making control over wealth through family expansion more difficult. Pastures shrank and family holdings became fixed and bounded. With land so limited, employment offered a new and open vista for expansion through sons' careers. Education was regarded as a means of obtaining profitable employment for sons. In addition, a number of male farmers also invested in businesses and trade.

Several factors started to impinge on family expansion. The cost of education and the scarcity of land placed economic restrictions on polygyny. Through business and wage employemnt, alternative paths to wealth were opened for men, through business and wage employment, and political power became more and more dependent on a place in the national administration, and in the post-colonial period, in the party and elected bodies. As a result, polygyny as a means of expansion and prestige for men declined in importance.

This shift in marriage pattern depends upon the decline in demand for wives. It is no longer necessary for a man to marry as soon as possible in order to attain a position of autonomy. Although in rural areas marriage is still seen as a sign of maturity, young men adhere to a different set of values than those of the older generation and can today obtain income without a wife. Their future position is no longer dependent upon polygyny and they

are therefore prepared to delay their own marriages. They spend their earnings on immediate investments or their siblings' school fees. On the small farms, women's labor has declined in importance and men are less dependent on family-based production. Young women are considered as a burden in their natal homes and are encouraged to find a man and leave. They occupy a disadvantageous, marginal position at home and, with the difficulties of finding men willing to pay bridewealth before cohabitation, are forced to elope.

The modified marriage pattern has not been accompanied by a change in the jural rules put into effect by the bridewealth transfer. On the contrary, the legality of marriage in terms of traditional rights and obligations is stressed. The persistence of basic jural aspects of bridewealth is reflected in the fact that they are constantly reinforced and supported in words and actions. While its transfer establishes a legal marriage, the absence of bridewealth leaves irregular unions outside the social and legal regulation of customary law. Men control and own all the resources which a wife seeks access to through marriage, such as land, money, cattle, and houses. A number of economic and socio-political factors have created the contemporary situation in which unions not covered by law have become the predominating form for initiating marriages. The possibility for men to establishing such illegitimate cohabitations gives them increased power over women. As long as a man is cohabiting with a woman but has not paid bridewealth he has no socially or legally sanctioned responsibilities for her. Land scarcity and the search for income and influence outside agriculture, which have made monetary income and land valuable assets in great demand, have also reduced the demand for wives. This development has further strained the circumstances of women. Faced with competition from brothers' families for resources and confronted with a cultural ideal which does not acknowledge the existence of unmarried women, and with men's reluctance to legalize irregular unions, modern Gusii women elope. Lacking the legitimacy of marriage at their partners' homes, they are forced to accept whatever terms are set by men in the hope that these partners will some day pay bridewealth for them.

The traditional legal rights and obligations established through bridewealth are favorable to men because as long as they do not apply to unpaid unions, men can choose among women with impunity. By stressing bridewealth's legal function men escape any social or legal control and responsibilities under circumstances in which women's labor and lineage proliferation are less valued than before.

Throughout the period under review, the jural rules defining the husband's and wife's statuses have been retained and adapted to new conditions. While modifications and extensions of the rules that extend men's control over women have occurred, the basic idea about the removal of a woman from her natal family and her subordinate incorporation in her husband's has persisted. Up to today these rights have been compatible with men's goals and values, i.e., family expansion as a means of economic control, prosperity and social prestige.

However, although they delay payment, men must pay bridewealth eventually in order to secure descendants. This relates bridewealth to a model of social classification in which it is possible to uphold a patrilineal ideology of segmentation and family growth. Patrilineal descent and inheritance has continued, and the territorial basis of descent groups has encouraged agnatic cooperation and identification. However, nowdays, such cooperation is restricted to a very narrow range of agnates and is fraught with competition between brothers and half-brothers. This is due to the limits placed by legal norms upon the allocation of resources such that a continuous division of land has resulted in smaller and smaller plots for each son. Men and older mothers of sons still control resources within the house-property system and take for granted the perpetuation of the principles behind it. For young, non-employed women it is this particular arrangement of property rights that denies them control over resources, but they are powerless to change it themselves.

The importance of cattle in bridewealth is retained as long as descent remains the basic principle for property allocation and the mode of kinship interaction. Although money is used in bridewealth payments, it only constitutes a portion of it, and cattle are always necessary. By stressing the rights and obligations effected through brideprice, the ideology of descent is also supported. The lessened importance for men to have as many children as possible probably makes them less interested in claiming children whom they are not biologically related to.

Since the competition for wives has disappeared, the overt market-like aspect of bridewealth has also diminished, leaving the symbolic component of the transaction more visible. The continuing payments of cattle for rights in children are exchanges which aim to symbolically confer social stauses rather than to maximize benefits and rewards (cf. Kapferer 1976:12; Moore 1978:50). Thus, the communicative aspect of bridewealth constrains the mode in which it is transferred. Content, form and context are connected with specific sets of messages about how the social universe is constructed, and about the relationship between involved parties (Sansom 1976). The communicative content is contained both in the medium and in the mode of the transfer. Only cattle can establish filiation. By giving the bulk of the bridewealth immediately after the negotiations, the balance of the exchange and the distance between the parties is emphasized.

The decline in the importance of women's labor for the production of wealth has weakened the link between bridewealth payment and monetary gain for husbands. What remains to be transferred for men are rights in children, and since the socially recognized descent of children from men is intimately connected with cattle, transfer of a few beasts is mandatory. On the other hand, changes in both the medium and in the mode of payment have entered into bridewealth transactions involving employed women. Today, strong emphasis is placed upon women's income-earning potential and upon affinal alliances.

But among the peasants, where the traditional social structure is still reproduced, cattle must still be transferred in order to validate patrilineal

descent, and wives continue to be almost completely absorbed into the husband's descent group. Affinal relationships are neutral and interaction is avoided; thus, the ownership of bridewealth cattle and money is transferred at one and the same moment, and the use of bridewealth for the as creation of an interactive social relationship is thereby precluded.

Family structure

Rules for the allocation and distribution of bridewealth have also remained largely unchanged with respect to brothers' rights to the use of their sisters' bridewealth. The house property rules regulating bridewealth, however, have been modified in scope to include the use of bridewealth, not only for sons' education, but also for the benefit of daughters. In the majority of cases today, bridewealth is invested in school fees and, to some extent, in land and businesses rather than in marriage. This change in use still follows house property rules, so that the children of the bridewealth-receiving house are entitled to have their school fees paid or to inherit the land purchased with incoming bridewealth. Another adaptation is that daughters also receive money from their sisters for school fees.

The new interpretation of house property rules is not a change in principle, but the rules have been adapted to a new situation in which family expansion can no longer take place through occupation of new land. The Gusii see expenditure on boy's school fees as a way of obtaining employment, which then enables sons to pay their own bridewealth. Marriage of sons is no longer instrumental in securing wealth of a family, since the investment of bridewealth in education achieves the same purpose. A new development, which is a break with tradition, is the allocation of bridewealth resources to daughters. This is, I believe, the beginning of a departure from the strict patrilineal, agnatic form of family toward a more flexible family constitution and kinship network based on cognatic ties through women as well as men.

With respect to bridewealth, house-property rules have been continuously reinforced not only as a model for the reproduction of social units, but also because social actors have had incentives in upholding them. The ascription of rights in sisters' bridewealths has always been validated through constant competition between houses and brothers. These rules have been difficult for household heads to override since conflicts would certainly ensue.

Changing norms

Thus, with respect to bridewealth among farmers, institutional adaptation has taken place on three levels: form, norms, and symbolic construction. The change in form has been the result of new opportunities created by changing economic and socio-political conditions, which in turn have modified norms, and altered the conditions for peoples' actions. Changing form results from individual strategies employed to reach certain goals, which have, to a great extent, remained constant through time. These goals in turn are based on

values derived from a model of society, the latter which stresses family expansion in terms of patrilineal segmentation. Such values are, however, changing as Gusii ideology becomes increasingly incompatible with the new factors underlying social and economic interaction, as is exemplified by the transformations taking place among the employed elite.

As Barth (1981) has pointed out, change in institutional form can take place without a change in jural or social norms. While the marriage pattern has altered, norms associated with the transfer of bridewealth have in some respects persisted, and in others become modified. The same also applies to the character of house property rules and to the actual allocations and distribution of incoming bridewealth. There has been a change in form accompanied by a partial modification of norms.

Holy (1986:85) has provided a scheme for the analysis of changes in norms which can be applied to the Gusii. He distinguishes three processes by which social transactions affect normative rules: revalidation, adaptation, and replacement. A norm is revalidated when there is no discrepancy between actions and the norm which actors perceive as prescriptive for their behavior. A norm is adapted when individuals recognize a specific norm as regulating and informing behavior but, through actions, reformulate and reinterpret it by widening or narrowing its scope. Replacement of a norm takes place when it is no longer applied in any situation, i.e., it is no longer revalidated. It may be replaced by a new norm governing the same type of interaction.

The norms connected with bridewealth have not been replaced: They have been adapted to new conditions of social and economic interaction. Their reformulation has been conducted by men whose social and economic positions of power and authority have enabled them to change the norms of interaction in relation to women to their own advantage (cf Paine 1974).

While the adaptation has proceeded piecemeal, the resulting reformulation of norms has continuously been revalidated. It is possible to distinguish two forms of revalidation: through the use of norms as resources and through conflicts. Jural rules not only constrain action and choices but are in themselves resources and assets which are used by people to achieve valued goals (Bledsoe 1980:178f). By actually facilitating individual strategies for reaching valued ends under different socio-economic circumstances, they are also continuously validated. This revalidation is conferred by those who have power and authority, i.e., men who control resources. For the Gusii the jural rules which were relevant when men wished to obtain as many wives as possible, are still applicable to current conditions in which polygyny is not sought. By stressing the jural rules connected with bridewealth, young men avoid paying bridewealth and gain more power over their partners.

The jural rules connected with bridewealth are also constantly reinforced through disputes and claims. Revalidation of norms is especially evident in cases where a man cohabiting with a woman dies, and in disputes between half-brothers. If a man dies before paying bridewealth for a woman with whom he has been living, his brothers usually evict the woman and all her children on the grounds that she was not legally married to their brother and

therefore has no rights to land. If a cohabiting man dies who has sons together with a legal wife, his legitimate family will evict the eloped woman and her children. In cases involving inheritance and access to land through marriage, customary law is continuously revalidated. Similarly, within the polygynous family, each house guards its resources and rights to equal division of patrimony.

Socio-economic stratification and bridewealth

Investment in education and business was initially a means of expanding the family in pursuit of the traditional goals of creating a descending lineage and achieving the prestige and influence connected with having many wives and sons. Expansion into these alternative niches, however, created new social and economic groups with both new cultural values and high incomes obtained from sources outside family-based farm production. The highly educated employed fall outside the segmentary model of society. They buy land outside their clan areas (usually registered in the husband's name) and they marry according to socio-economic group and construct social networks on the basis of new principles. Hence, among this group, bridewealth is changing not only in form but also in meaning, towards economic compensation and affinal alliance. Matrilateral ties are becoming more important while employed women maintain close economic and social ties with their parents.

By virtue of their salary, employed women control a resource which both gives them leverage in marriage and makes them valuable to men. The demand for employed women is reflected in the high bridewealth paid for them, and in the fact that they elope less frequently than peasant women. Women who receive an education usually do not elope but prefer to complete their studies and obtain employment before marriage or cohabitation. These employed women aspire to marriage in order to obtain the only socially sanctioned status open to Gusii women. Since they are in demand by employed men, their incomes are used to put pressure on potential husbands to pay bridewealth and thereby legitimize the unions. As long as a man has not paid bridewealth he will not be able to control his partner's income. Thus, men have the incentive to pay bridewealth for employed women and do so in order to obtain rights in their partners, who in turn gain legitimate status as wives.

Women's strategies received the encouragement of parents and are made possible by these women's earnings, but their goals do not end with marriage. As wives, employed women want, and do, continue to support both their siblings with school fees, and give their parents gifts and money of varying amounts. Husbands of employed women also contribute money for the school fees of their sisters and brothers-in-law. Thus, by controlling a resource, employed women are beginning to change the content of the husbands' rights in wives' labor. In these marriages, the husbands no longer have complete control over their wives' incomes, but have to acknowledge the desire of wives to allocate money to their natal families. A new agreement about the transfer of resources between husbands and wives is emerging.

This development supports Parkin's (1978:269) hypothesis that women's increased control over resources through employment will lead women to "rewrite the clause in the marriage contract". It also casts doubt on the hypothesis made by several anthropologists (e.g., Goody 1973:3; Mair 1971:50f; Schneider 1979:82) that bridewealth affects the quantum of rights in a woman transferred from wife-givers to wife-takers. While rights *in genetricem* are transferred from one descent group to another, rights *in uxorem* are not solely established by the transfer of a woman from her family and descent group, but are also, to a large extent, the result of the balance of power between husbands and wives. In other words, women enter into the bridewealth transaction as active agents and not only as pawns.

Among the poor farmers, the change in rights and obligations between husbands and wives, from the colonial period up to now, is the result of a decline in womens' power and not of a change in the wife-givers' ability to transfer rights. The opposite development among the employed women is the result of an increase in their ability to control wealth. The hypothesis that the value of bridewealth increases with the quantum of rights transferred is contradicted by the fact that although employed women fetch higher bridewealth than non-employed, the husband of the former actually gains less rights in his wife's income and person than the husband of the latter.

An employed woman's parents and brothers stress that bridewealth is a compensation and a way of creating alliances with affines. The son-in-law becomes indebted to his father-in-law and interaction with the wife's siblings becomes frequent. Among the new social and economic groups of wealthy, employed, and educated people, new principles for social interaction and values are generated through the use of bridewealth. Its transfer has an inherent capacity for creating social relationships, and contains the elements for the symbolic construction of such links. The affinal and matrilateral kinship links created by bridewealth that were previously restrained or denied are now emphasized. This shift in emphasis is verbally expressed and manifested through manipulation of the communicative capacity of the transfer. Instead of paying or transferring ownership of the cattle in a lump sum, bridewealth is extended over a number of years and both the debt of the son-in-law, and the daughter's link with her natal family, are stressed. In addition, most of the bridewealth is supposed to be paid in money, which in practice makes the installments of bridewealth indistinguishable from other gifts.

The Gusii case and the study of bridewealth

Observation of social relationships over time permits us to ascertain how socio-cultural variables interact. Many studies of bridewealth have taken theoretical stands, emphasizing one approach over another. For example, Mair states: "...bridewealth is not a market transaction". Referring to bridewealth negotiations, she continues: "...this is in part an expression of the idea that the gift of a wife is something valuable beyond repayment" (1971: 52).

Furthermore: "It should be clear by now that cattle are not a general medium of exchange but a means of establishing and maintaining a particular social relationship" (*ibid.*:54). For similar programmatic statements from those espousing a legal approach see also Ogbu (1978: 241, 258), and Dalton (1978 :193ff).

Concerning formalist economic anthropologists such as Schneider (1979:82) writes, "Bridewealth is a correlate of the demand for female labor". And "Thus women were seen as a type of capital, equivalent in many ways to livestock". The economic aspects are also stressed as paramount by Laughlin (1974:137f).

The present research casts doubts on the appropriateness of such polarizations. I have endeavoured to show that economic, jural, political and symbolic approaches are all valid. They do not exclude each other but are complementary. Gusii bridewealth has definite jural aspects which are basic to its form and role, but it also has economic importance as well as symbolic content (cf. Kuper 1982).

It has been possible to analyze the fluctuating values of Gusii bridewealth over time from a formalist economic perspective. Gusii bridewealth varies according to supply and demand for wives. However, a qualitative analysis of its socio-structural significance, as well as its role as a medium for constructing a folk model of social classification, has been necessary.

The diachronic perspective adopted here has also revealed that varying aspects of bridewealth have been emphasized by Gusii during different time periods. In the colonial period particularly, bridewealth stood out as a medium through which actors competed for wealth and prestige, thus giving it a market quality. Currently, bridewealth payments among poorer Gusii farmers stand out as symbolic transfers for securing rights in children because the demand for wives has declined and competition has disappeared.

Analysis of bridewealth can be advanced by establishing the character of the transactional relationship between wife-givers and wife-takers, as well as between wife and husband. E.g., the economic aspect of bridewealth is not independent of its structural setting. The existence of market-like transactions depend on a specific form of social and political structure. Among the Gusii, segmentation and opposition between clans and lineages, together with the absence of any integrative institutions, emphasisizes the distant, negative character of affinal relationships, from which bargaining and maximization of bridewealth for daughters resulted. The growth of one's own line of descent was imperative, and cattle was the medium through which it could be achieved. Wife-givers and wife-takers are enemies by definition, and therefore the growth and power of either had to be avoided.

The integration of structural factors in a transactional analysis may account for Goldschmidt's (1974) observation that the market character of bridewealth systems varies between societies. In a comparative study of East African societies, he showed that while most societies had negotiable bridewealth, many transferred fixed payments without negotiations. This may be connected with the presence or absence of unilineal descent ideologies and structural arrangements (Håkansson 1987; cf. Jacobson 1967).

The new structure of socio-economic stratification and cultural differentiation emerging among the Gusii elite is complementing the old segmentary ideology and structure. This is accompanied by the changing of bridewealth into a medium whereby affinal alliances are established. Although the character of bridewealth transfers among the employed and wealthy is not uniform, a new trend is evolving. The element of bargaining is balanced by the desire to create a social relationship based on the son-in-law's debt to his father- in-law. Future affinal relationships, rather than immediate gain is emphasized. Thus the economic character of bridewealth is dependent on the socio-political, structural arrangements.

Epilogue

In the near future, the increase in the Gusii population will probably lead to a massive displacement of people from the agricultural sector. Further division of family farms into smaller plots is not possible. Thus the rules for resource allocation and inheritance will soon become obsolete. The practice of assimilating women into their husbands' lineages is already changing, creating a growing category of economically and socially marginalized single mothers. The increased number of landless men will have no resources to offer women in marriage, and hence non-employed women will have no incentives for entering into stable unions with these men. It is therefore possible that the number of matrifocal households will increase. If no major economic resources become available to these women and their children in the near future, then they will live in abject poverty.

Bridewealth will probably disappear as a viable institution in this sector of the Gusii population. Strictly speaking, however, without bridewealth payment, women and their children are not members of Gusii society. Other kinship networks will emerge as important for this growing class of landless to rely upon. I do believe that bridewealth will continue among the employed and the elite as a means to create affinal alliances and to strengthen class endogamy.

The Gusii population is probably the fastest growing in eastern Africa. I predict that a number of other patrilineal societies will also undergo similar experiences in the near future. It is important to understand the social consequences of population growth and land scarcity. Although these factors create poverty and economic stratification, they also entail a breakdown of the previous social organization which affects many people adversely. However, since their only access to resources has been through marriage, the dissolution of the marriage system most seriously affects the already dispossessed, namely the women

Appendices

Appendix 1. Bridewealth statistics – number of observations, 1929–1964.

Year	Nr	Year	Nr	Year	Nr
1929	52	1939	63	1950*	4
1930	5	1940	61	1951	5
1931	9	1941	70	1952	9
1932	4	1942	76	1953	2
1933	8	1943	69	1954	6
1934	59	1944	45	1955	3
1935	12	1945	50	1956	9
1936	20	1946	55	1957	5
1937	34	1947	69	1958	5
1938	63	1948	61	1959	9
		1949	108	1960	5
				1961	3
				1962	4
				1963	7
				1964	5

Sources: Nyabururu Roman Catholic Mission bridewealth diaries 1929–1949. My own field notes* 1950–1964.

Appendix 2. Bridewealth statistics (cows): means and standard deviations, 1965–84.

Year	Employed women $\bar{x}$	N	Non-employed women Sengera $\bar{x}$	N	Non-employed women Suneka $\bar{x}$	N
1984					2.83 ± 1.55	(4)
1983	11.59 ± 4.17	(4)	1.77 ± 0.40	(3)	3.00 ± 1.28	(3)
1982	18.71 ± 9.23	(6)	2.40 ± 1.35	(3)	2.73 ± 2.05	(3)
1981	15.81 ± 5.79	(5)	3.95 ± 0.07	(2)	3.55 ± 1.20	(2)
1980	11.41 ± 3.05	(6)	3.37 ± 1.35	(3)	2.38 ± 1.27	(6)
1979	12.02 ± 5.26	(6)	2.63 ± 0.32	(4)		
1978	14.10 ± 5.15	(3)	4.35 ± 0.35	(2)	2.92 ± 1.11	(5)
1977	15.65 ± 7.48	(4)	6.10 ± 0.71	(2)	3.57 ± 0.87	(3)
1976	13.26 ± 5.61	(7)	7.45 ± 3.30	(4)		
1975	18.43 ± 6.69	(7)	5.03 ± 0.99	(6)	6.03 ± 1.31	(3)
1974			7.36 ± 0.71	(5)	3.73 ± 1.36	(3)
1973					5.65 ± 3.99	(4)
1972	17.97 ± 7.05	(3)	5.57 ± 0.99	(6)	2.17 ± 0.49	(3)
1971	16.55 ± 11.17	(3)	6.90 ± 3.21	(3)		
1970			10.75 ± 6.01	(2)		
1969			8.05 ± 2.77	(4)		
1968					6.43 ± 4.21	(4)
1967			8.60 ± 0.14	(2)		
1966			12.67 ± 5.16	(4)		
1965			18.30 ± 3.99	(3)	10.98 ± 3.14	(6)

Observations are only given for those years when they exceed one.

Appendix 3 Populations in the sublocations of the main study areas. Suneka – Bomorenda; Sengera – Bokimonge & Bosoti. Source: Kenya Population Census 1979 & 1969.

Sublocation	Area	Population	Population density; pers/km^2
Bokimonge			
1969	38 km^2	13,231	346/km^2
1979	44 km^2	16,173	365/km^2
Bosoti			
1969	45 km^2	12,604	283/km^2
1979	48 km^2	17,374	360/km^2
Bomorenda			
1969	25 km^2	8,739	357/km^2
1979	18 km^2	11,572	638/km^2

Cohabiting and married men and women included in the surveys of the two study areas.

Study area	Men	Women	Total
Suneka	143	118	261
Sengera	145	124	269

References

Unpublished sources

Kenya National Archives

Logan, M. (1916), *Some Kisii Customs*. Political Record Book, South Kavirondo District, 1907-24.

Northcote, A. S. (1908), *The Kisii*. Political Record Book, South Kavirondo District, 1907-24.

South Nyanza Gazeteer, ca. 1953.

Marriages: Native Brideprices. Nyanza Province Files.

South Kavirondo Annual Reports (SKAR) 1907/08-1948.

South Kavirondo Quarterly Reports (SKQR) 1909-1911.

South Nyanza Annual Reports (SNAR) 1949-1961.

Kisii Annual Reports (KAR) 1962-1968.

Native Tribunal Ordinance (NTO)

South Kavirondo and South Nyanza Local Native Council Minutes (SK & SN LNC).

1931 min. 16/42, in Marriages: Native Brideprices.

1944 min. 9/44, in Native Affairs Department.

1945 min. 45/45, in Native Affairs Department.

1949 min. 70/49, in Marriages: Native Brideprices.

The Archives of Cardinal Otunga High School Historical Society, Mosocho, Kisii District.

Kisii Law Panel Minutes (KLP) 1954-1956.

South Kavirondo Local native Council Minutes.

1939 min. 3/8.

1942 min. 16.

Other material

Kuja (Ogembo) and Kisii Courts:

Civil cases stored in these courts.

The Roman Catholic Church at Nyabururu, Kisii:

Records of bridewealth payments 1929-1982.

Udvardy, M. (1983), Unpublished field notes from a pilot study on ageing among the Gusii, September 1983. Department of Cultural Anthropology, University of Uppsala.

Published references

Bager, T. (1980), *Marketing Cooperatives and Peasants in Kenya.* Uppsala: Scandinavian Institute of African Studies.

Barth, F. (1966), *Models of Social Organization.* London: Royal Anthropological Institute. Occasional Papers no. 23.

– (1981), *Process and form in social life.* London: Routledge and Kegan Paul.

Bledsoe, C. M. (1980), *Women and Marriage in Kpelle Society.* Stanford: Stanford University Press.

Bohannan, P. (1955), Some Principles of Exchange and Investment Among the Tiv. *American Anthropologist* 57: 60-70.

BCOHS. (1979), Kisii – Luo Trade. *Bulletin of the Cardinal Otunga Historical Society* 77: 1-28. Nyabururu (Kisii): Cardinal Otunga Historical Society.

Castro, A. P., N. T. Håkansson and D. W. Brokensha (1981), Indicators of Rural Inequality. *World Development* 9: 401-429.

Cohen, A. (1969), *Custom and Politics in Urban Africa.* London: Routledge and Kegan Paul.

Comaroff, J. J. (1980), Introduction. In J. J. Comaroff, ed., *The Meaning of Marriage Payments.* New York: Academic Press.

Dahl, G. and Hjort, A. (1976), *Having Herds.* Stockholm: Stockholm University. Stockholm Studies in Social Anthropology.

Dalton, G. (1978), Bridewealth versus Brideprice. In G. Dalton, ed., *Economic Anthropology and Development.* New York: Basic Books.

DeWolf, J. J. (1978), *Differentiation and Integration in Western Kenya.* The Hague: Mouton.

Douglas, M. (1966), *Purity and Danger.* London: Routledge and Kegan Paul.

Epp, H., A. Killmayer and D. Peden (1983), Land Use in Kisii District. *Technical Report* no. 97. Nairobi: Kenya Range Land Ecological Monitoring Unit.

Evans-Pritchard, E. E. (1934), Social Character of Bridewealth with Special Reference to the Azande. *Man* 34: 172-175.

– (1974 (1940)), *The Nuer.* Oxford: Clarendon Press.

Firth, R. (1964), *Essays in Social Organization and Values.* London: Athlone.

Fortes, M. (1953), The Structure of Unilineal Descent Groups. *American Anthropologist* 55: 17-41.

– (1962), Introduction. In M. Fortes, ed., *Marriage in Tribal Societies.* Cambridge: Cambridge University Press.

– (1969), *Kinship and the Social Order.* London: Routledge and Kegan Paul.

Galaty, J. (1981), Models and Metaphors: On the Semiotic Explanation of Segmentary Systems. In L. Holy and M. Stuchlik, eds., *The Structure of Folk Models.* London: Academic Press.

Gluckman, M. (1950), Kinship and Marriage among the Lozi of Northern Rhodesia and the Zulu of natal. In A. R. Radcliffe-Brown and D. Forde, eds., *African Systems of Kinship and Marriage.* London: Oxford University Press.

Goldschmidt, W. (1969), Game Theory, Cultural Values and Brideprice in Africa. In I. R. Buchler and H. G. Nutini, eds., *Game Theory in the Social Sciences*. Pittsburgh: University of Pittsburgh Press.

– (1974), The Economic of Brideprice Among the Sebei and in East Africa. *Ethnology* 13: 311-331.

Goody, J. (1973), Bridewealth and Dowry in Africa and Eurasia. In J. Goody and S. J. Tambiah, eds., *Bridewealth and Dowry*. Cambridge: Cambridge University Press.

Gough, K. (1971), Nuer Kinship: A Reexamination. In T. O. Beidelman, ed., *The Translation of Culture*. London: Tavistock.

Hay, J. M. (1982), Women as Owners, Occupants, and Managers of Property in Colonial Western Kenya. In J. M. Hay and M. Wright, eds., *African Women and the Law: Historical Perspectives*. Boston University Papers on Africa, VII.

Holy, L. and M. Stuchlik (1981), Introduction. In L. Holy and M. Stuchlik, eds., *The Structure of Folk Models*. London: Academic Press.

– (1983), *Actions, Norms and Representations*. Cambridge: Cambridge University Press.

Holy, L. (1886), *Strategies and Norms in a Changing Matrilineal Society*. Cambridge: Cambridge University Press.

Hoyt, E. (1928), *Primitive Trade: Its Psychology and Economics*. New York: Augustus M. Kelley.

Håkansson, N. T. (1984), House Property Systems in Eastern Africa: A Comparative Study. *Working Papers in African Studies* no. 3. Uppsala: University of Uppsala, Dept. of Cultural Anthropology.

– (1985), Why do Gusii Women get Married? A Study of Cultural Constraints and Women's Strategies in a Rural Community in Kenya. *Folk* 27: 89-114.

– (1986), Landless Gusii Women. *Working Papers in African Studies* no. 29. Uppsala: University of Uppsala, Dept. of Anthropology.

– (1987), Bridewealth and Social Classification. *Working Papers in African Studies* no 35. Uppsala: University of Uppsala, Dept. of Cultural Anthropology.

– (1987a), *The appropriation of Fertility: Descent and Sex among the Gusii of Kenya*. Paper presented at the International Conference on African Folkmodels at the Dept. of Cultural Anthropology, University of Uppsala, August 1987. To be published in A. Jacobson widding, ed., *Fertility, Continuity and Oneness*. Uppsala Studies in Cultural Anthropology. Uppsala: Acta Universitatis Upsaliensis.

Jacobson, A. (1967), *Marriage and Money*. Uppsala: Studia Ethnographica Upsaliensia.

Jones, A. M. (1982), Women's Legal Access to Land. In B. Lewis, ed., *Invisible Farmers: Women and Crisis in Agriculture*. Washington DC: US AID.

Kapferer, B. (1976), Introduction. In B. Kapferer, Ed., *Transaction and Meaning*. Philadelphia: ISHI

Karp, I. (1978), *Fields of Change Among the Iteso of Kenya.* London: Routledge and Kegan Paul.
Karp, I. and K. Manyard (1983), Reading the Nuer. *Current Anthropology* 24: 481-503.
Kenya Government. (1934), *Report of the Kenya Land Commission.* London.
– (1962, 1969, 1979), *Population Cencuses.*
– (n.d.), *KSCS (Kisii Socio-Cultural Survey).* Nairobi: Institute of African Studies.
Kitching, G. (1980), *Class and Economic Change in Kenya.* London: Yale University Press.
Kongstad, P. and M. Mönsted (1980), *Family, Labour and Trade in Western Kenya.* Uppsala: Scandinavian Institute of African Studies.
Kuper, A. (1970), The Kgalagari and the Jural Consequences of Marriage. *Man* (n.s.) 5: 355-381.
– (1982), *Wives for Cattle.* London: Routledge and Kegan Paul.
Langley, M. (1979), *The Nandi of Kenya.* London: Hurst.
Lanting, H. (1977), *Land Utilization Types in the Kisii District, a Preliminary Study.* Preliminary Report 15. Wageningen: Agricultural University.
Laughlin, C. C. (1974), Maximization, Marriage and Residence Among the So. *American Ethnologist* 1: 129-142.
Lamphere, L. (1974), Strategies, Cooperation and Conflict Among Women in Domestic groups. In I. M. Rosaldo and L. Lamphere, eds., *Women, Culture and Society.* Stanford: Stanford University Press.
Leach, E. (1976), *Culture and Communication.* Cambridge: Cambridge University Press.
LeVine, R. A. (1959), Gusii Sex Offences: a Study in Social Control. *American Anthropologist* 61: 695-690.
– (1962), Wealth and Power in Gusiiland. In P. J. Bohannan and G. Dalton, eds., *Markets in Africa.* Evanston: University of Illinois Press.
– (1964), The Gusii Family. In R. F. Gray and P. H. Gulliver, eds., *The Family Estate in Africa.* Boston: Boston University Press.
LeVine R. A. and Levine, B. B. (1966), *Nyansongo: a Gusii Community in Kenya.* New york: Wiley.
LeVine, S. (1979), *Mothers and Wives.* Chicago: The University of Chicago Press.
Long, N. (1968), *Social Change and the Individual.* Manchester: Manchster University Press.
Mair, L. P. (1969), *African Marriage and Social Change. London: Cass.*
– *(1971), Marriage.* Harmondsworth: Penguin.
Mauss, M. (1970 (1954)), *The Gift.* London: Routledge and Kegan Paul.
Maxon, R. M. (1972), *British Rule in Gusiiland, 1907-1963.* PhD Dissertation, Syracuse University. Ann Arbor: university Microfilms International.
Mayer, I. (1965a), The Nature of Kinship Relations: The Significance of Use of Kinship Terms among the Gusii. *The Rhodes-Livingstone Papers* 37, Manchester: Manchester University Press.

– (1965b), From Kinship to Common Descent: Four-generation Lineages among the Gusii. *Africa* 36: 366-384.
– (1975), The Patriarchal Image: Routine Dissociation in Gusii families. *African Studies* 34: 259-281.
Mayer, P. (1949), The Lineage Principle in Gusii Society. *International African Institute Memorandum* 24. London: Oxford University Press.
– (1950a), Gusii Bridewealth, Law and Custom. *The Rhodes-Livingstone Papers* 18. London: Oxford University Press.
– (1950b), Privileged Obstruction of Marriage Rites among the Gusii. *Africa* 20: 113-125.
– (1951), Two Studies in Applied Anthropology in Kenya. *Colonial Research Studies* 3. London: His Majesty's Stationary office.
– (1953), Gusii Initiation Ceremonies. *Journal of the Royal Anthropological Institute* 83.
Mayer, P. and I. Mayer (1965), Land Law in the Making. In L. Kuper, ed., *The Development and Adaptation of Legal Systems in Africa.* Berkeley: University of California Press.
Mitchell, J. C. (1961), Social Change and the Stability of African Marriage in Northern Rhodesia. In A Southall, ed., *Social Change in Modern Africa.* London: Oxford University Press.
Moore, S. F. (1978), *Law as Process.* London: Routledge and Kegan Paul.
Murray, C. (1976), Marital Strategy in Leshoto. *African Studies* 35: 99-121.
– (1977), High Bridewealth, Migrant Labour and the Position of Women in Leshoto. *Journal of African Law* 21: 79-96.
– (1981), *Families Divided.* Cambridge: Cambridge University Press.
Nerlove, S. (1969), *Trait Dispositions and Situational Determinants of Behavior among Gusii Children of Southwestern Kenya.* PhD Dissertation, Stanford University. Ann Arbor: University Microfilms International.
Oboler, R. S. (1985), *Women, Power, and Economic Change.* Stanford: Stanford University Press.
Ochieng, W. R. (1975), *A Pre-colonial History of the Gusii of Western Kenya, c. A.D. 1500 to 1914.* Nairobi: East African Literature Bureau.
Ogbu, J. O. (1978), African Bridewealth and Women's Status. *American Ethnologist* 5: 241-262.
Paine, R. (1974), *Second Thoughts About Barth's Models.* Royal Anthropological Institute, Occasional Papers no. 32.
Pala, A. O. (1980), Daughters of the Lakes and Rivers: Colonization and the Land Rights of Luo Women. In M. Etienne and E. Leacock, eds., *Women and Colonization.* New York: Praeger.
Parkin, D. (1972), *Palms, Wine and Witnesses.* San Fransisco: Chandler.
– (1976), Exchanging Words. In B. Kapferer, ed., *Transaction and Meaning.* Philadelphia: ISHI.
– (1978), *The Cultural Definition of Political Response.* London: Academic Press.
– (1980), Kind Bridewealth and Hard Cash. In J. L. Comaroff, ed.,*The Meaning of Marriage Payment.* New York: Academic Press.

Peristiany, J. G. (1939), *The Social Institutions of the Kipsigis*. London: G. Routledge and Sons.

Peters, E., (1967), Some Structural Aspects of the Feud among the Camel-herding Bedouin of Cyrenaica. *Africa* 37: 261-282.

Sahlins, M. (1972), *Stone Age Economics*. Chicago: Aldine.

Salzman, P. C. (1978), Does Complementary Opposition Exist? *American Anthropologist* 80: 53-73.

Sansom, B. (1976), A Signal Transaction and Its Currency. In B. Kapferer, ed., *Transaction and Meaning*. Philadelphia: ISHI.

Schneider, H.K. (1979), *Livestock and Equality in East Africa*. Bloomington: University of Indiana Press.

Shipton, P. (1984), Lineage and Locality as Antithetical Principles in East African Systems of Land Tenure. *Ethnology* 23: 117-132.

Singer, A. (1973), Marriage Payments and the Exchange of People. *Man* (n.s.) 8: 80-92.

Smith, M. G. (1956), On Segmentary Lineage Systems. *Journal of the Royal Anthropological Institute* 86: 39-79.

Swantz, M-L. (1984), *Women in Development: A Creative Role Denied*. London: Hurst.

Tambiah, S. J. (1973), From Varna to Caste Through Mixed Unions. In J. Goody, ed., *The Character of Kinship*. Cambridge: Cambridge University Press.

Tiffany, S. W. and K. J. Adams (1985), *The Wild Woman*. Cambridge (Mass): Schenkman.

Tobisson, E. (1986), *Family Dynamics Among the Kuria*. Gothenburg: University of Gothenburg, Dept. of Anthropology.

Uchendu V. C. and K. R. M. Anthony (1975), *Agricultural Change in Kisii District*. Nairobi: East African Literature Bureau.

Verdon, M. (1982), Where have all the Lineages Gone? Cattle and Descent among the Nuer. *American Anthropologist* 84: 566-579.

Whyte, S. Reynolds, (1979/80), Wives and Co-wives in Marachi, Kenya. *Folk* 21-22: 133-146.

Wilemski, E. A. (1975), *African Traditional Subsistence Economy in Change*. Colonge.

Index

Adams, K. J., 32
Adultery, 97, 104
Affinal relationships, of husband, 53-6, 60-1, 63, 67-8, 79-80, 84-5, 131, 144, 156-7, 162, 171, 202, 210-12, 219, 222; avoidance and, 54, 156-7, 203-4; changing, 203-4, 210-12, 222; feuding and, 54
Agriculture, 29, 62, 65, 67, 115, 117-18; expansion of, 62, 74, 87-90, 93; income from, 87, 115, 129, 144-5, 167

Bager, T., 116-19, 122, 125, 128-30, 167-8, 176
Barth, F., 18-19, 24, 220
Bassi, 21
Big men, 62-4, 76, 102-3, 128
Bledsoe, C., 220
Bohannan, P., 61
Bought people (*abasomba*), 62
Bridewealth, 139, Bukusu, 61, cash crop production and, 87-8, 90-5, 165; church and, 132; composition of, 44, 64-65, 79, 139, 170-2; contractual obligations, 54-5, 60-61; debt, 37-8, 54-55, 57-8, 60-1, 68, 78-80, 139, 203-4, 206-8; 210-12; delays in payment of, 178-183, 187-89, 192, 197-9, 203-4, 212, 220; descent and, 15, 57, 59-61, 67, 141, 147, 171-2, 176, 193, 211-12, 218-19; disputes over, 84-5, 134-35; division and allocation within the family, 37-8, 55-56, 142, 174-176, 219-20; economic analysis and, 15, 176, 223; employed men and, 169, 190; employed women and, 164, 174,196-202, 205-12, 226; fluctuations in, 64-5, 67-8, 87-8, 90-4, 100, 164-5, 170-1, 196, 216; inheritance and, 183; Iteso, 61; legal aspects of, 14-15, 19, 55-9, 133-35, 161, 193-4, 223; legitimation of marriage and, 14, 49, 53, 150, 161-2, 180, 194, 217 *passim*; Lesotho, 17; litigation and, 77; limitation of, 76; Luo, 17; mode of payment of, 43-4, 54-5; money and, 102-5, 156, 170-2, 174-7, 186, 196-7, 203-209, 211-12, 218; negotiations, 43-4, 67-68, 133-4, 139-40, 171-2, 205-8; non-employed women and, 172, 179, 186-95; 197-200, 226; paid by wives, 193; polygyny and, 17, 87, 99, 166; posthumous, 160, 183; refund of, 97-8, 128, 149, 157-9, 161, 180-1; replacement of, 55-6, 84; rights in children (*in genetricem*, genetricial rights), 43, 55-9, 66-9, 133, 141, 159, 162, 168, 181, 183, 193-4, 211-12, 218, 222; rights in a husband, 52, 66, 96, 152, 158, 215; rights in a wife (rights *in uxorem*, uxorial rights), 14, 49-50, 52-53, 58, 66, 95, 144, 152, 154, 159, 162, 190, 211-12, 222; rights to land and, 83, 146, 148-9, 152, 159-60, 183, 193-4, 200, 213-14; rules for replacement of, 44, 155-6; social change and, 17-20, 162, 209-13; social structure and, 67-8, 162; socio-economic stratification and, 130, 136, 198, 204; 211-14, 221, 224; symbolism of, 15, 20, 61, 208-9, 218-19, 223; theoretical approaches to, 14-18, 223; use of, 172-6, 186, 189, 200; value of, 64-5, 168, 171, 174, 176, 196-200, 203-4; women's labor capacity and, 55, 66, 168, 170-1, 174, 187, 189, 198-205, 215, 218; women's relationship with natal home and, 52, 69, 151-2, 184, 201; women's status and, 18, 150-2, 180, 185, 202, 213-4, 217
Business, 116, 124-25, 127, 168, 173-6

Castro, A. P., Hakansson, N. T. and D. W. Brokensha, 128
Cash crops, 74, 81, 86, 88-96, 113, 115-16, 153, women's access to income from, 95, 144-6, 153, 155, 160
Cattle, 67, 104, 118, 206; of daughters, 37; holdings, 92-3, 118, 177; of husband, 37; prices, 92, 165; raiding, 37-8, 62, 65, 86
Chagga, 196
Chiefs, 73, 76, 100, 125, 135, 144 *passim*

Childrearing, 151
Churches, 126, 130-32, 137, 204; attitudes towards bridewealth, 199; women's role in, 131-32; marriage and, 170, 199-200, 209-10
Circumcision, 191, 195
Clans, 30-4, 51, 114, 121; conflicts between, 34, 36, 53, 56, 65-9, 80-6; joint action of, 34, 65-66; land rights and, 29,34, 40, 80-5, 121-22; segmentation of, 31-4, 39-40, 54, 83
Climate, 27
Cohabitation, and women's status, 179-80, 185, 192-3, 217, 221
Cohen, A., 211
Colonial administration, 73, 74, 76, 96 *passim*
Comaroff, J., 14, 15
Curses, 38-9, 143
Customary law, 75-6, 95-7, 99-102, 132-35,192, 193-4

Dahl & Hjort, 104
Dalton, G., 61, 223
Daughter-in-law marriage, 58-9, 163, 184
Descent, 31; ideology and, 32, 39-40, 54, 56-61, 67-8, 82-3, 85, 121-22, 124, 155, 194, 211-12, 214; segmentation and, 31-35, 39-41, 67-8, 82-3, 85, 125, 136, 218-20; social classification and, 32, 54, 60-1, 140; territory and, 40, 67-8, 122, 136, 140,145, 211-12, 218; and women's status, 32, 58, 162-3
Divorce, 52, 56-7, 60, 79-80, 96-100, 104, 133-5, 148-9, 154, 156-61, 172, 179-80, 189; sterility as cause of, 155, 157
DeWolf, J. J., 61
Dwellers on foreign clan land, 35, 83

Economic spheres, 61
Education, 75, 114, 126-30; fees for, 93, 114-15, 122, 128, 168, 172-5, 191, 217; prestige and, 174-5,
Elopement, 101, 132, 138-9, 141, 143, 153, 168, 170, 179, 187-90, 196, 212; – social and economic consequences for women, 180-2, 184, 186, 190-4, 214, 217; initiated by fathers and brothers, 186, 188, 192, 214; reasons for, 190-4, 212, 216 *passim*; women's education and, 191, 198-9, 201, 217
Emonga (the husband's land), 29, 37, 95, 146-7, 153-4
Employment, 116, 120, 125, 127-30 ; income from, 116, 127-30, 173; socio-economic standing and, 128-30, 141, 169, 174 women and, 125, 175; 196-204
Endogamy, 127
Epp, *et al*, 117
Estrangement of eloped women, 167-8, 179-81, 183-4, 221; rate of, 182
Evans-Pritchard, E. E., 16
Exchange of grain and livestock, 37-8, 55-6, 61-3, 86, 103
Exogamy, 30, 33, 35, 121

Family, authority of head, 36, 38; conflict in the, 36, 122, 124, 142-4, 147-9, 153-4, 160-1, 186-194, 213, 216; cooperation within the, 30, 123, 137; division of livestock within the, 37-38, 56-7, 67-8, 81, 154-5; precolonial organization of the, 36-39; property relationship in, 36-39, 81-5, 122, 142, 145-51, 213, 216;
Feuding, 65-9
Firth, R., 19
Fortes, M., 15, 24, 34
Funeral, 51

Galaty, J., 39-40,
Genitor, 36, 38
Gluckman, M., 68
Goldschmidt 15, 166, 223
Goody, J., 15, 61, 162, 222
Gough, K., 32

Håkansson, N. T., 61, 67-9, 201, 211, 223
Hay, J. M., 102
Hedlund, H., 122
Holy, L., 18-19, 24, 39-40, 220
Homestead, 34-36,
Household, 145; income, 119-20, 143, 188
Hoyt, E., 61
Husband's status, 52-3, 141, 158

Inheritance, 159, cattle, 37-8, 56; land 81-85, 124, 148-9, 145-6, 183
In-laws, 207

Jacobson, A., 15, 161, 223
Jones, A. M., 214

Kapferer, B., 18, 218
Karp, I., 39, 61
Kenya Land Commission, 92

Kikuyu, 41
Kin, assistance to, 34, 54, 63, 123, 128, 137, 163
Kinship terminology, 35-6, 53-4
Kipsigis, 28, 65
Kitching, G., 16, 18, 170
Kongstad, P. & M. Monsted, 116
Kuper, A., 16, 61, 69, 102-3, 162, 223
Kuria, 73, 88

Labor, division of, 29-30, 95-7, 118, 144, 187; wage, 74-5, 87, 90, 96; 143, 171
Lamphere, L., 18
Land, holdings, 117-18, 127-30; pressure on, 83; registration of, 82; shortage of, 118, 124, 128, 147-8, 160, 166-9, 175, 186, 212, 214, 217; tenure, 29-30, 80-5, 119-20, 122, 136, 145-9, 152-4, 193-4, 216; women's access to, 37, 119, 145-9, 152-54, 162-3, 184, 193-4, 201-2, 215
Langley, M., 69
Lanting, H., 118, 128-29
Laughlin, C., 223
Leach, E., 59
Legal system, 64, 76, 86, 96-99, 132-35, 158, 180
LeVine, B., 33, 54, 64, 76, 95, 125, 142, 166, 169, 179, 188, 192
LeVine, R., 24, 33, 36-7, 54, 64, 76-7, 93, 95-6, 102-3, 125, 142, 166, 169, 179, 188, 192
LeVine, S., 37, 123, 150, 181, 202
Levirate, 38, 160
Lineage, 30-34; property relationships and, 34, 122, 125, 145-6; joint action and, 34, 64, 125, 128-9
Livestock gifts at wedding, 48-9
Logan, M., 43,
Luo, 17, 28, 62, 65, 73, 88, 102, 168
Luyah, 41

Maasai, 28, 65, 80
Mair, L., 15, 102-3, 162, 222
Market, 73-4, 86-89, 119
Marriage, 138; costs, 209; age at, 65; forced, 45, 100-1; in church, 132, 138, 199, 208-10; initiation of, 42-4; national law and, 210; ritual, 42, 44-51, 140
Matrikin, 42, 49, 63, 203, 211
Mauss, M., 211
Maxon, R. C., 73-7
Mayer, I., 24, 30, 34, 42, 51, 53, 56, 63, 76, 80-2, 96-7, 179
Mayer, P., 24, 27, 30, 32, 33-34, 37, 42-6, 48-52, 55-9, 65, 68-9, 76-7, 80-2, 95-8, 191
Methods, 23-4
Migrations 27-8
Missions, 74, 88, 153
Mitchell, J. C., 211
Monogamy, 63, 169-70
Moore, S. F., 18-19, 218
Moshi, 88
Mothers, 36, 39, 58, 151, 153, 159, 162
Murray, C., 17

Nandi, 69
Nerlove, S., 123, 149, 166, 192
Norms, 13, 16-24, 83-4, 144, 161-3, 213-5, 219-20
Northcote, A. S., 28

Oboler, R. S., 102, 214
Ochieng, W., 33
Ogbu, J., 14, 162, 223
Omokungi omotanga tangi ("a loose woman"), 183, 185

Paine, R., 220
Pala, A. O., 102
Parental authority, 36, 87, 136, 139, 141-3, 149, 179, 199-201
Parkin, D., 15-19, 41, 60, 102, 166, 168, 211, 213, 222
Pater, 36
Peristiany, J. G., 69
Peters, E., 40
Polygyny, 17, 62-4, 85, 99, 117, 129, 131, 136, 146, 166-70, 175, 189, 193-4, 215-6
Population (growth) increase, 80, 84, 113
Pre-colonial history, 27-8

Sahlins, M., 61, 68, 211
Sansom, B., 61, 176, 218
Schneider, H. K., 15, 222
Sebei, 15
Separation, 66, 143, 159-60
Shipton, P., 40, 85
Siblings, assistance to, 122-3, 128, 157, 188, 192, 202, 204
Singer, A., 18
Single mothers, 182, 184-5, 190-4, 214, 224
South Nyanza Gazetteer, 92
Stratification, sexual, 126; socio-economic, 122-30, 136, 211-12, 224
Stuchlik, M., 18, 24

Suba, 73
Suneka market, 21-22
Swantz, M-L, 194

Tambiah, S.J., 59
Tiffany, S. W., 32
Tobisson, E., 18, 58, 195
Trade, 62, 65-6, 86, 96
Tribunal Courts, 23, 76-9, 81, 84-5, 96-101, 132

Uchendo & Anthony, 75, 165

Verdon, M., 39

Wanjare, 21
Widows, 38, 146
Wife's status, 49-52, 65-6, 81-5, 98-101, 148-50, 158-63, 180, 185, 216
Wilemski, E. A., 117, 146, 165, 167
Whyte, S. R., 202
Women, attitudes towards bridewealth, 150-1, 171, 193, 200, 203; beating of, 99, 134, 144, 158; control over, 53, 56, 66, 99-102, 144; employed women's relationship with natal home, 200-4; exploitation of their labor, 16, 86-7, 93-99, 102, 118, 144-5, 151, 162, 167-8, 180, 189-90, 193-4, 215-17, 221; expulsion of, 160-1, 167, 183; house-property and, 38, 146, 149, 151, 154-5, 159, 161-3, 215-16; law and, 132-35, 147, 158, 174; national law and the status of, 133, 186, 201; rape of, 184; relationship with natal family, 51-2, 57, 65-6, 123, 151-2, 157, 183, 188, 191-2, 200, 202, 210-12, 221; relationship with husband's family, 44, 46, 188, 193; – their control over resources, 35-39, 65-6, 81-5, 96 124-25, 146-9, 151, 154-5, 161, 191-2, 198-204, 213, 221
Workgroups, 30, 34, 123-4

Acta Universitatis Upsaliensis

Uppsala Studies in Cultural Anthropology

Editor: Anita Jacobson-Widding

1. Anita Jacobson-Widding: *Red–White–Black as a Mode of Thought.* A Study of Triadic Classification by Colours in the Ritual Symbolism and Cognitive Thought of the Peoples of the Lower Congo. 1979.
2. Lisa Colldén: *Trésors de la Tradition Orale Sakata.* Proverbes, mythes, légendes, fables, chansons et devinettes de Sakata. 1979.
3. Hugh Beach: *Reindeer-Herd Management in Transition.* The Case of Tuorpon Saameby in Northern Sweden. 1980.
4. Kaj Århem: *Makuna Social Organization.* A Study in Descent, Alliance and the Formation of Corporate Groups in the North-Western Amazon. 1981.
5. Anita Jacobson-Widding (ed.): *Identity: Personal and Socio-Cultural. A Symposium.* 1983.
6. Jürgen Zwernemann: *Culture History and African Anthropology: A Century of Research in Germany and Austria.* 1983.
7. Mick Johnsson: *Food and Culture among Bolivian Aymara.* Symbolic Expressions of Social Relations. 1986.
8. S. Cederroth, C. Corlin & J. Lindström (eds): *On the Meaning of Death.* Essays on Mortuary Rituals and Escatological Beliefs. With an Introduction by Maurice Bloch. 1988.
9. Alf Hornborg: *Dualism and Hierarchy in Lowland South America.* Trajectories of Indigenous Social Organization. 1988.
10. Thomas Håkansson: *Bridewealth, Women and Land.* Social Change among the Gusii of Kenya. 1988.

Uppsala Studies in Cultural Anthropology is the title of a series in which publications in the field of Cultural and Social Anthropology, in the broad sense, are issued at irregular intervals. Further information may be obtained from the editor, Professor Anita Jacobson-Widding, Department of Cultural Anthropology, Trädgårdsgatan 18, S-752 20 Uppsala, Sweden.

Distributed by Almqvist & Wiksell International, Stocholm, Sweden

ISBN 91-554-2190-3
ISSN 0348-5099